

110TH CONGRESS
1ST SESSION

S. 1889

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2007

Mr. LAUTENBERG (for himself, Mr. SMITH, Mrs. CLINTON, Mr. KERRY, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**
4 **MENT OF TITLE 49.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Railroad Safety Enhancement Act of 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents; amendment of title 49.
- Sec. 2. Definitions.
- Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD RISK REDUCTION AND STRATEGY

- Sec. 101. Establishment of chief safety officer.
- Sec. 102. Railroad safety strategy.
- Sec. 103. Railroad safety risk reduction pilot program.
- Sec. 104. Railroad safety risk reduction program.
- Sec. 105. Positive train control system implementation.
- Sec. 106. Hours of service reform.
- Sec. 107. Protection of railroad safety risk analyses information.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

- Sec. 201. Pedestrian crossing safety.
- Sec. 202. State action plans.
- Sec. 203. Improvements to sight distance at highway-rail grade crossings.
- Sec. 204. National crossing inventory.
- Sec. 205. Telephone number to report grade crossing problems.
- Sec. 206. Operation Lifesaver.
- Sec. 207. Trespasser prevention and highway-rail crossing safety.
- Sec. 208. Fostering introduction of new technology to improve safety at highway-rail grade crossings.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

- Sec. 301. Human capital increases.
- Sec. 302. Civil penalty increases.
- Sec. 303. Enforcement report.
- Sec. 304. Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.
- Sec. 305. Railroad radio monitoring authority.
- Sec. 306. Emergency waivers.
- Sec. 307. Federal rail security officers' access to information.
- Sec. 308. Update of Federal Railroad Administration's website.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

- Sec. 401. Employee training.
- Sec. 402. Certification of certain crafts or classes of employees.
- Sec. 403. Track inspection time study.
- Sec. 404. Study of methods to improve or correct station platform gaps.
- Sec. 405. Use of distracting devices in locomotive cabs.
- Sec. 406. Railroad safety technology grants.
- Sec. 407. Railroad safety infrastructure improvement grants.
- Sec. 408. Amendment to the movement-for-repair provision.
- Sec. 409. Development and use of rail safety technology.
- Sec. 410. Employee sleeping quarters.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

- Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.

Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.

Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

Sec. 601. Clarification of Federal jurisdiction over solid waste facilities.

1 (c) AMENDMENT OF TITLE 49.—Except as otherwise
2 expressly provided, whenever in this Act an amendment
3 or repeal is expressed in terms of an amendment to, or
4 a repeal of, a section or other provision, the reference shall
5 be considered to be made to a section or other provision
6 of title 49, United States Code.

7 **SEC. 2. DEFINITIONS.**

8 (a) IN GENERAL.—In this Act:

9 (1) CROSSING.—The term “crossing” means a
10 location within a State, other than a location where
11 one or more railroad tracks cross one or more rail-
12 road tracks either at grade or grade-separated,
13 where—

14 (A) a public highway, road, or street, or a
15 private roadway, including associated sidewalks
16 and pathways, crosses one or more railroad
17 tracks either at grade or grade-separated; or

18 (B) a pathway explicitly authorized by the
19 property owner that is dedicated for the use of
20 nonvehicular traffic, including pedestrians,
21 bicyclists, and others, that is not associated
22 with a public highway, road, or street, or a pri-

1 vate roadway, crosses one or more railroad
2 tracks either at grade or grade-separated.

3 (2) DEPARTMENT.—The term “Department”
4 means the Department of Transportation.

5 (3) RAILROAD.—The term “railroad” has the
6 meaning given that term by section 20102 of title
7 49, United States Code.

8 (4) RAILROAD CARRIER.—The term “railroad
9 carrier” has the meaning given that term by section
10 20102 of title 49, United States Code.

11 (5) SECRETARY.—The term “Secretary” means
12 the Secretary of Transportation.

13 (6) STATE.—The term “State” means a State
14 of the United States, the District of Columbia, or
15 the Commonwealth of Puerto Rico.

16 (b) IN TITLE 49.—Section 20102 is amended—

17 (1) by redesignating paragraphs (1) and (2) as
18 paragraphs (2) and (3), respectively;

19 (2) by inserting before paragraph (2), as redес-
20 ignated, the following:

21 “(1) ‘Class I railroad’ means a railroad carrier
22 that has annual carrier operating revenues that meet
23 the threshold amount for Class I carriers, as deter-
24 mined by the Surface Transportation Board under

1 section 1201.1–1 of title 49, Code of Federal Regu-
2 lations.”; and

3 (3) by adding at the end thereof the following:

4 “(4) ‘safety-related railroad employee’ means—

5 “(A) a railroad employee who is subject to
6 chapter 211;

7 “(B) another operating railroad employee
8 who is not subject to chapter 211;

9 “(C) an employee who maintains the right
10 of way of a railroad carrier;

11 “(D) an employee of a railroad carrier who
12 is a hazmat employees as defined in section
13 5102(3) of this title;

14 “(E) an employee who inspects, repairs, or
15 maintains locomotives, passenger cars or freight
16 cars; and

17 “(F) any other employee of a railroad who
18 directly affects railroad safety, as determined
19 by the Secretary.”.

20 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

21 Section 20117(a) is amended to read as follows:

22 “(a) IN GENERAL.—(1) There are authorized to be
23 appropriated to the Secretary of Transportation to carry
24 out this part and to carry out responsibilities under chap-
25 ter 51 as delegated or authorized by the Secretary—

- 1 “(A) \$245,000,000 for fiscal year 2008;
2 “(B) \$260,000,000 for fiscal year 2009;
3 “(C) \$270,000,000 for fiscal year 2010;
4 “(D) \$280,000,000 for fiscal year 2011;
5 “(E) \$290,000,000 for fiscal year 2012; and
6 “(F) \$300,000,000 for fiscal year 2013.

7 “(2) With amounts appropriated pursuant to para-
8 graph (1), the Secretary shall purchase 6 Gage Restraint
9 Measurement System vehicles and 5 track geometry vehi-
10 cles or other comparable technology to enable the deploy-
11 ment of 1 Gage Restraint Measurement System vehicle
12 and 1 track geometry vehicle or other comparable tech-
13 nology in each region.

14 “(3) There are authorized to be appropriated to the
15 Secretary \$18,000,000 for the period encompassing fiscal
16 years 2008 through 2011 to design, develop, and construct
17 the Facility for Underground Rail Station and Tunnel
18 Testing and Training at the Transportation Technology
19 Center, Inc., in Pueblo, Colorado. The facility shall be
20 used to test and evaluate the safety and security
21 vulnerabilities of above-ground and underground rail tun-
22 nels to prevent accidents and incidents in such tunnels,
23 to mitigate and remediate the consequences of any such
24 accidents or incidents, and to provide a realistic scenario
25 for training emergency responders.

1 “(4) Such sums as may be necessary from the
 2 amount appropriated pursuant to paragraph (1) for each
 3 of the fiscal years 2008 through 2013 shall be made avail-
 4 able to the Secretary for personnel in regional offices and
 5 in Washington, DC, whose duties primarily involve rail se-
 6 curity.”.

7 **TITLE I—RAILROAD SAFETY**
 8 **RISK REDUCTION AND STRAT-**
 9 **EGY**

10 **SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.**

11 Section 103 is amended—

12 (1) by redesignating subsections (c), (d), and
 13 (e) as subsections (e), (f), and (g); and

14 (2) by inserting after subsection (b) the fol-
 15 lowing:

16 “(c) **SAFETY AS HIGHEST PRIORITY.**—In carrying
 17 out its duties, the Administration shall consider safety as
 18 the highest priority, recognizing the clear intent, encour-
 19 agement, and dedication of Congress to the furtherance
 20 of the highest degree of safety in railroad transportation.

21 “(d) **CHIEF SAFETY OFFICER.**—The Administration
 22 shall have an Associate Administrator for Railroad Safety
 23 appointed in the career service by the Secretary. The Asso-
 24 ciate Administrator shall be the Chief Safety Officer of
 25 the Administration. The Associate Administrator shall

1 carry out the duties and powers prescribed by the Admin-
2 istrator.”.

3 **SEC. 102. RAILROAD SAFETY STRATEGY.**

4 (a) SAFETY GOALS.—In conjunction with existing
5 federally-required and voluntary strategic planning efforts
6 ongoing at the Department and the Federal Railroad Ad-
7 ministration on the date of enactment of this Act, the Sec-
8 retary shall develop a long-term strategy for improving
9 railroad safety to cover a period of not less than 5 years.
10 The strategy shall include an annual plan and schedule
11 for achieving, at a minimum, the following goals:

12 (1) Reducing the number and rates of acci-
13 dents, injuries, and fatalities involving railroads in-
14 cluding train collisions and derailments and human
15 factors.

16 (2) Improving the consistency and effectiveness
17 of enforcement and compliance programs.

18 (3) Improving the identification of high-risk
19 highway-rail grade crossings and strengthening en-
20 forcement and other methods to increase grade
21 crossing safety.

22 (4) Improving research efforts to enhance and
23 promote railroad safety and performance.

24 (5) Preventing railroad trespasser accidents, in-
25 juries, and fatalities.

1 (b) RESOURCE NEEDS.—The strategy and annual
2 plan shall include estimates of the funds and staff re-
3 sources needed to accomplish the goals established by sub-
4 section (a). Such estimates shall also include the staff
5 skills and training required for timely and effective accom-
6 plishment of each such goal.

7 (c) SUBMISSION WITH THE PRESIDENT’S BUDG-
8 ET.—The Secretary shall submit the strategy and annual
9 plan to the Senate Committee on Commerce, Science, and
10 Transportation and the House of Representatives Com-
11 mittee on Transportation and Infrastructure at the same
12 time as the President’s budget submission.

13 (d) ACHIEVEMENT OF GOALS.—

14 (1) PROGRESS ASSESSMENT.—No less fre-
15 quently than annually, the Secretary shall assess the
16 progress of the Department toward achieving the
17 strategic goals described in subsection (a). The Sec-
18 retary shall identify any deficiencies in achieving the
19 goals within the strategy and develop and institute
20 measures to remediate such deficiencies.

21 (2) REPORT TO CONGRESS.—Not later than
22 November 1st of each year, the Secretary shall
23 transmit a report to the Senate Committee on Com-
24 merce, Science, and Transportation and the House
25 of Representatives Committee on Transportation

1 and Infrastructure on the performance of the Fed-
 2 eral Railroad Administration containing the progress
 3 assessment required by paragraph (1) toward
 4 achieving the goals of the railroad safety strategy
 5 and annual plans under subsection (a).

6 **SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PRO-**
 7 **GRAM.**

8 (a) IN GENERAL.—Subchapter II of chapter 201 is
 9 amended by adding at the end thereof the following:

10 **“§ 20156. Railroad safety risk reduction pilot pro-**
 11 **gram**

12 (a) PILOT PROGRAM.—

13 “(1) IN GENERAL.—The Secretary of Transpor-
 14 tation shall develop a 2-year railroad safety risk re-
 15 duction pilot program to systematically evaluate and
 16 manage railroad safety risks with the goal of reduc-
 17 ing the numbers and rates of railroad accidents, in-
 18 juries, and fatalities. Not later than 9 months after
 19 the date of enactment of the Railroad Safety En-
 20 hancement Act of 2007, the Secretary shall, in co-
 21 ordination with selected railroads, railroad facilities,
 22 and the nonprofit employee labor organizations that
 23 represent safety-related railroad employees employed
 24 at such railroad or railroad facility, at a minimum—

1 “(A) identify the aspects of a selected rail-
2 road or railroad facility, including operating
3 practices, infrastructure, equipment, employee
4 levels and schedules, safety culture, manage-
5 ment structure, employee training, and other
6 matters, including those not covered by railroad
7 safety regulations or other Federal regulations,
8 that impact railroad safety;

9 “(B) evaluate how these aspects of a se-
10 lected railroad or railroad facility increase or
11 decrease risks to railroad safety;

12 “(C) develop a safety risk reduction pro-
13 gram to improve the safety of a selected rail-
14 road or railroad facility by reducing the num-
15 bers and rates of accidents, injuries, and fatali-
16 ties through—

17 “(i) the mitigation of the aspects of a
18 selected railroad or railroad facility that
19 increase risks to railroad safety; and

20 “(ii) the enhancement of aspects of a
21 selected railroad or railroad facility that
22 decrease risks to railroad safety; and

23 “(D) incorporate into the program the con-
24 sideration and use of existing, new, or novel
25 technology, operating practices, risk manage-

1 ment practices or other behavior-based practices
2 that could improve railroad safety at the se-
3 lected railroad or railroad facility.

4 “(2) IMPLEMENTATION DEADLINE.—Not later
5 than 12 months after the date of enactment of the
6 Railroad Safety Enhancement Act of 2007, the se-
7 lected railroad or railroad facility shall implement
8 the safety risk reduction program developed under
9 paragraph (1)(C) on the selected railroad or railroad
10 facility and ensure that all employees at the selected
11 railroad or railroad facility have received and are
12 complying with training related to the program.

13 “(b) SELECTION OF RAILROAD OR RAILROAD FACIL-
14 ITY FOR PILOT PROGRAM.—Not later than 3 months after
15 the date of enactment of the Railroad Safety Enhance-
16 ment Act of 2007, the Secretary shall develop a voluntary
17 application process to select 1 or more railroad or railroad
18 facilities where the pilot project will be implemented. The
19 application process shall include criteria for rating appli-
20 cants, such as safety performance, accident and incident
21 history, existence of risk management or behavior-based
22 practices at the railroad or railroad facility, number of em-
23 ployees employed at the railroad or railroad facility, and
24 other relevant criteria determined by the Secretary.

1 “(c) EVALUATION.—Not later than 6 months after
 2 the completion of the safety risk reduction program pilot
 3 program, the Secretary shall submit a report to Congress
 4 evaluating the pilot program, which shall include—

5 “(1) a summary of the railroad safety risk re-
 6 duction pilot program and description of the actions
 7 taken by the Secretary and selected railroad or rail-
 8 road facilities during the program;

9 “(2) an analysis of the difference in the number
 10 and rates of accidents, injuries, and fatalities at a
 11 selected railroad or railroad facility before and after
 12 the implementation of the risk reduction pilot pro-
 13 gram at a selected railroad or railroad facility; and

14 “(3) guidelines on the preparation and imple-
 15 mentation of railroad safety risk reduction program
 16 for the railroad carriers required to develop such
 17 plans under section 20157 that reflect that best
 18 practices developed during the pilot program.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
 20 ysis for chapter 201 is amended by inserting after the item
 21 relating to section 20155 the following:

“20156. Railroad safety risk reduction pilot program.”.

22 **SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.**

23 (a) IN GENERAL.—Subchapter II of chapter 201, as
 24 amended by section 103, is amended by adding at end
 25 thereof the following:

1 **“§ 20157. Railroad safety risk reduction program**

2 “(a) IN GENERAL.—

3 “(1) PROGRAM REQUIREMENT.—Not later than
 4 2 years after the Secretary of Transportation sub-
 5 mits the report required by section 20156, the Sec-
 6 retary, by regulation, shall require each railroad car-
 7 rier that is a Class I railroad, a railroad carrier that
 8 has inadequate safety performance (as determined
 9 by the Secretary), or a railroad that provides inter-
 10 city passenger or commuter rail passenger transpor-
 11 tation—

12 “(A) to develop a railroad safety risk re-
 13 duction program under subsection (d) that sys-
 14 tematically evaluates railroad safety risks and
 15 manages those risks in order to reduce the
 16 numbers and rates of railroad accidents, inju-
 17 ries, and fatalities;

18 “(B) to submit its program, including any
 19 required plans, to the Federal Railroad Admin-
 20 istration for its review and approval; and

21 “(C) to implement the program and plans
 22 approved by the Federal Railroad Administra-
 23 tion.

24 “(2) RELIANCE ON PILOT PROGRAM.—The Sec-
 25 retary shall use the information and experience gath-

1 ered through the pilot program under section 20156
2 in developing regulations under this section.

3 “(3) WAIVERS.—The Secretary may grant a
4 waiver under section 20103(d) to a railroad carrier
5 from compliance with all or a part of the require-
6 ments of this section if the Secretary determines
7 that the safety performance of the railroad carrier is
8 sufficient to warrant the waiver.

9 “(4) VOLUNTARY COMPLIANCE.—A railroad
10 carrier that is not required to submit a railroad
11 safety risk reduction program under this section
12 may voluntarily submit a program that meets the re-
13 quirements of this section to the Federal Railroad
14 Administration. The Federal Railroad Administra-
15 tion shall approve or disapprove any program sub-
16 mitted under this paragraph.

17 “(b) CERTIFICATION.—The chief official responsible
18 for safety of each railroad carrier required to submit a
19 railroad safety risk reduction program under subsection
20 (a) shall certify that the contents of the program are accu-
21 rate and that the railroad will implement the contents of
22 the program as approved by the Federal Railroad Admin-
23 istration.

24 “(c) RISK ANALYSIS.—In developing its railroad safe-
25 ty risk reduction program each railroad required to submit

1 such a program under subsection (a) shall identify and
 2 analyze the aspects of its railroad, including operating
 3 practices, infrastructure, equipment, employee levels and
 4 schedules, safety culture, management structure, employee
 5 training, and other matters, including those not covered
 6 by railroad safety regulations or other Federal regulations,
 7 that impact railroad safety.

8 “(d) PROGRAM ELEMENTS.—

9 “(1) IN GENERAL.—Each railroad required to
 10 submit a railroad safety risk reduction program
 11 under subsection (a) shall develop a comprehensive
 12 safety risk reduction program to improve safety by
 13 reducing the number and rates of accidents, injuries,
 14 and fatalities that is based on the risk analysis re-
 15 quired by subsection (c) through—

16 “(A) the mitigation of aspects that in-
 17 crease risks to railroad safety; and

18 “(B) the enhancement of aspects that de-
 19 crease risks to railroad safety.

20 “(2) REQUIRED COMPONENTS.—Each railroad’s
 21 safety risk reduction program shall include a tech-
 22 nology implementation plan that meets the require-
 23 ments of subsection (e) and a fatigue management
 24 plan that meets the requirements of subsection (f).

25 “(e) TECHNOLOGY IMPLEMENTATION PLAN.—

1 “(1) IN GENERAL.—As part of its railroad safe-
2 ty risk reduction program, a railroad required to
3 submit a railroad safety risk reduction program
4 under subsection (a) shall develop a 10-year tech-
5 nology implementation plan that describes the rail-
6 road’s plan for development, adoption, implementa-
7 tion, and use of current, new, or novel technologies
8 on its system over a 10-year period to reduce safety
9 risks identified under the railroad safety risk reduc-
10 tion program.

11 “(2) TECHNOLOGY ANALYSIS.—A railroad’s
12 technology implementation plan shall include an
13 analysis of the safety impact, feasibility, and cost
14 and benefits of implementing technologies, including
15 processor-based technologies, positive train control
16 systems (as defined in section 20158(b)), electroni-
17 cally controlled pneumatic brakes, rail integrity in-
18 spection systems, rail integrity warning systems,
19 switch position indicators, trespasser prevention
20 technology, highway rail grade crossing technology,
21 and other new or novel railroad safety technology, as
22 appropriate, that may mitigate risks to railroad safe-
23 ty identified in the risk analysis required by sub-
24 section (c).

1 “(3) IMPLEMENTATION SCHEDULE.—A rail-
 2 road’s technology implementation plan shall contain
 3 a prioritized implementation schedule for the devel-
 4 opment, adoption, implementation, and use of cur-
 5 rent, new, or novel technologies on its system to re-
 6 duce safety risks identified under the railroad safety
 7 risk reduction program.

8 “(f) FATIGUE MANAGEMENT PLAN.—

9 “(1) IN GENERAL.—As part of its railroad safe-
 10 ty risk reduction program, a railroad required to
 11 submit a railroad safety risk reduction program
 12 under subsection (a) for which the analysis under
 13 subsection (c) has shown fatigue to be a significant
 14 source of risk shall develop a fatigue management
 15 plan that is designed to reduce the fatigue experi-
 16 enced by safety-related railroad employees and to re-
 17 duce the likelihood of accidents, injuries, and fatali-
 18 ties caused by fatigue.

19 “(2) TARGETED FATIGUE COUNTER-
 20 MEASURES.—A railroad’s fatigue management plan
 21 shall take into account the varying circumstances of
 22 operations by the railroad on different parts of its
 23 system, and shall prescribe appropriate fatigue coun-
 24 termeasures to address those varying circumstances.

1 “(3) ADDITIONAL ELEMENTS.—A railroad shall
2 consider the need to include in its fatigue manage-
3 ment plan elements addressing each of the following
4 items, as applicable:

5 “(A) Employee education and training on
6 the physiological and human factors that affect
7 fatigue, as well as strategies to reduce or miti-
8 gate the effects of fatigue, based on the most
9 current scientific and medical research and lit-
10 erature.

11 “(B) Opportunities for identification, diag-
12 nosis, and treatment of any medical condition
13 that may affect alertness or fatigue, including
14 sleep disorders.

15 “(C) Effects on employee fatigue of an em-
16 ployee’s short-term or sustained response to
17 emergency situations, such as derailments and
18 natural disasters, or engagement in other inten-
19 sive working conditions.

20 “(D) Scheduling practices for employees,
21 including innovative scheduling practices for
22 employees, including scheduling procedures, on-
23 duty call practices, work and rest cycles, in-
24 creases in consecutive days off for employees,
25 changes in shift patterns, appropriate sched-

1 uling practices for varying types of work, and
2 other aspects of employee scheduling that would
3 reduce employee fatigue and cumulative sleep
4 loss.

5 “(E) Methods to minimize accidents and
6 incidences that occur as a result of working at
7 times when scientific and medical research have
8 shown increased fatigue disrupts employees’ cir-
9 cadian rhythm.

10 “(F) Alertness strategies, such as policies
11 on napping, to address acute sleepiness and fa-
12 tigue while an employee is on duty.

13 “(G) Opportunities to obtain restful sleep
14 at lodging facilities, including employee sleeping
15 quarters provided by the railroad carrier.

16 “(H) The increase of the number of con-
17 secutive hours of off-duty rest, during which an
18 employee receives no communication from the
19 employing railroad carrier or its managers, su-
20 pervisors, officers, or agents.

21 “(I) Avoidance of abrupt changes in rest
22 cycles for employees.

23 “(J) Additional elements that the Sec-
24 retary considers appropriate.

25 “(g) CONSENSUS.—

1 “(1) IN GENERAL.—Each railroad required to
2 submit a railroad safety risk reduction program
3 under subsection (a) shall consult with, employ good
4 faith and use its best efforts to reach agreement
5 with, all of its directly affected employees on the
6 contents of the safety risk reduction program.

7 “(2) STATEMENT.—If the railroad carrier and
8 its directly affected employees, including any non-
9 profit employee labor organization representing a
10 class or craft of directly affected employees of the
11 railroad carrier, cannot reach consensus on the pro-
12 posed contents of the plan, then directly affected
13 employees and such organization may file a state-
14 ment with the Secretary explaining their views on
15 the plan on which consensus was not reached. The
16 Secretary shall consider such views during review
17 and approval of the program.

18 “(h) ENFORCEMENT.—The Secretary shall have the
19 authority to assess civil penalties pursuant to chapter 213
20 for a violation of this section, including the failure to sub-
21 mit, certify, or comply with a safety risk reduction pro-
22 gram, technology implementation plan, or fatigue manage-
23 ment plan.”.

24 (b) CONFORMING AMENDMENT.—The chapter anal-
25 ysis for chapter 201, as amended by section 103, is further

1 amended by inserting after the item relating to section
2 20156 the following:

“20157. Railroad safety risk reduction program.”.

3 **SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTA-**
4 **TION.**

5 (a) IN GENERAL.—Subchapter II of chapter 201, as
6 amended by section 104, is further amended by adding
7 at end thereof the following:

8 **“§ 20158. Positive train control system implementa-**
9 **tion**

10 “(a) IN GENERAL.—The Secretary of Transportation
11 shall ensure that each railroad required to submit a rail-
12 road safety risk reduction program pursuant to section
13 20157 that includes in its technology implementation plan
14 a schedule for implementation of a positive train control
15 system complies with that schedule and implements its
16 positive train control system by December 31, 2018, un-
17 less the Secretary determines that a railroad shall imple-
18 ment its positive train control system by an earlier date.

19 “(b) POSITIVE TRAIN CONTROL SYSTEM DE-
20 FINED.—The term ‘positive train control system’ means
21 a system designed to prevent train-to-train collisions, over-
22 speed derailments, and incursions into roadway worker
23 work limits.”.

24 (b) CONFORMING AMENDMENT.—The chapter anal-
25 ysis for chapter 201, as amended by section 104, is further

1 amended by inserting after the item relating to section
2 20157 the following:

“20158. Positive train control system implementation.”.

3 **SEC. 106. HOURS OF SERVICE REFORM.**

4 (a) CHANGE IN DEFINITION OF SIGNAL EM-
5 PLOYEE.—Section 21101(4) is amended—

6 (1) by striking “employed by a railroad car-
7 rier”; and

8 (2) by inserting “railroad” after “maintaining”.

9 (b) LIMITATION ON DUTY HOURS OF TRAIN EM-
10 PLOYEES.—Section 21103 is amended—

11 (1) by striking subsection (a) and inserting the
12 following:

13 “(a) IN GENERAL.—Except as provided in subsection
14 (c) of this section, a railroad carrier and its officers and
15 agents may not require or allow a train employee to re-
16 main or go on duty—

17 “(1) for a period in excess of 12 consecutive
18 hours;

19 “(2) unless the employee has had at least 10
20 consecutive hours off duty during the prior 24
21 hours; or

22 “(3) unless the employee has had at least one
23 period of at least 24 consecutive hours off duty in
24 the past 7 consecutive days.

1 The Secretary may waive paragraph (3) if a collective bar-
 2 gaining agreement provides a different arrangement and
 3 such arrangement provides an equivalent level of safety
 4 and protection against fatigue for affected employees.”;

5 (2) by striking subsection (b)(4) and inserting
 6 the following:

7 “(4)(A)(i) Time spent waiting for or in
 8 deadhead transportation to a duty assignment and,
 9 except as provided in clauses (ii) and (iii), time
 10 spent waiting for or in deadhead transportation from
 11 a duty assignment to the place of final release is
 12 time on duty.

13 “(ii) Time spent waiting for or in deadhead
 14 transportation from a duty assignment to a place of
 15 final release is neither time on duty nor time off
 16 duty in situations involving delays in the operations
 17 of the railroad carrier, when delays were caused
 18 by—

19 “(I) a casualty;

20 “(II) an accident;

21 “(III) a track obstruction;

22 “(IV) an act of God;

23 “(V) a severe weather event;

24 “(VI) a severe snowstorm;

25 “(VII) a landslide;

1 “(VIII) a track or bridge washout;

2 “(IX) a derailment;

3 “(X) a major equipment failure which pre-
4 vents a train from advancing; or

5 “(XI) any other delay from a cause un-
6 known or unforeseeable to a railroad carrier
7 and its officers and agents in charge of the em-
8 ployee when the employee left a designated ter-
9 minal.

10 “(iii) In addition to any time qualifying as nei-
11 ther on duty nor off duty under clause (ii), the rail-
12 road carrier may elect to treat not more than 4
13 hours a day and not more than 30 hours a month
14 per employee of time spent waiting for or in
15 deadhead transportation to the place of final release
16 as neither time on duty nor time off duty for 3 years
17 after the date of enactment of the Railroad Safety
18 Enhancement Act of 2007.

19 “(B) Each railroad shall report to the Sec-
20 retary, in accordance with the procedures contained
21 in section 228.19 of title 49, Code of Federal Regu-
22 lations, each instance in which an employee subject
23 to this section spends time waiting for of in
24 deadhead transportation from a duty assignment to
25 the place of final release that is not time on duty.

1 “(C) If—

2 “(i) the time spent waiting for or in
3 deadhead transportation from a duty assign-
4 ment to the place of final release, that is not
5 time on duty, plus

6 “(ii) the time on duty,
7 exceeds 12 consecutive hours, the railroad carrier
8 and its officers and agents shall provide, at the elec-
9 tion of the employees subject to this section, employ-
10 ees with additional time off duty equal to the num-
11 ber of hours that such sum exceeds 12 hours.”; and

12 (3) by adding at the end the following:

13 “(d) COMMUNICATION DURING TIME OFF DUTY.—
14 During a train employee’s minimum off-duty period of 10
15 consecutive hours, as provided under subsection (a), or
16 during an interim period of at least 4 consecutive hours
17 available for rest under subsection (b)(7), a railroad car-
18 rier, and its managers, supervisors, officers, and agents,
19 shall not communicate with the train employee by tele-
20 phone, by pager, or in any other manner that could dis-
21 rupt the employee’s rest. Nothing in this subsection shall
22 prohibit communication necessary to notify an employee
23 of an emergency situation (as defined by the Secretary).
24 The Secretary may waive the requirements of this para-
25 graph, subject to section 20103, for a railroad that pro-

1 vides commuter or intercity passenger transportation if
 2 the Secretary determines that it is necessary to maintain
 3 that railroad's efficient operations and on-time perform-
 4 ance of its trains.”.

5 (c) LIMITATION ON DUTY HOURS OF SIGNAL EM-
 6 PLOYEES.—Section 21104 is amended—

7 (1) by striking subsection (a) and inserting the
 8 following:

9 “(a) IN GENERAL.—Except as provided in subsection
 10 (c) of this section, a railroad carrier, its officers and
 11 agents, and a contractor or subcontractor to a railroad
 12 may not require or allow a signal employee to remain or
 13 go on duty—

14 “(1) for a period in excess of 12 consecutive
 15 hours; or

16 “(2) unless the employee has had at least 10
 17 consecutive hours off duty during the prior 24
 18 hours.”;

19 (2) by striking “duty, except that up to one
 20 hour of that time spent returning from the final
 21 trouble call of a period of continuous or broken serv-
 22 ice is time off duty.” in subsection (b)(3) and insert-
 23 ing “duty.”;

24 (3) by adding “A signal employee may not be
 25 allowed to remain or go on duty under the emer-

1 agency authority provided under this subsection to
2 conduct routine repairs, maintenance, or inspection
3 of signal systems.” at the end of subsection (c); and
4 (4) by adding at the end the following:

5 “(d) COMMUNICATION DURING TIME OFF DUTY.—
6 During a signal employee’s minimum off-duty period of
7 10 consecutive hours, as provided under subsection (a),
8 a railroad carrier, and its managers, supervisors, officers,
9 and agents, shall not communicate with the signal em-
10 ployee by telephone, by pager, or in any other manner that
11 could disrupt the employee’s rest. Nothing in this sub-
12 section shall prohibit communication necessary to notify
13 an employee of an emergency situation (as defined by the
14 Secretary).

15 “(e) EXCLUSIVITY.—The hours of service, duty
16 hours, and rest periods of signal employees shall be gov-
17 erned exclusively by this chapter. Signal employees oper-
18 ating motor vehicles shall not be subject to any hours of
19 service rules, duty hours, or rest period rules promulgated
20 by any Federal authority, including the Federal Motor
21 Carrier Safety Administration, other than the Federal
22 Railroad Administration.”.

23 (d) REGULATORY AUTHORITY.—

24 (1) IN GENERAL.—Chapter 211 is amended by
25 adding at the end thereof the following:

1 **“§ 21109. Regulatory authority**

2 “(a) IN GENERAL.—The Secretary of Transportation
3 may issue regulations—

4 “(1) to reduce the maximum hours an employee
5 or class of employees may be required or allowed to
6 go or remain on duty to a level less than the level
7 established under this chapter;

8 “(2) to increase the minimum hours an em-
9 ployee or class of employees may be required to rest
10 to a level greater than the level established under
11 this chapter; or

12 “(3) to make other changes to the maximum
13 hours or minimum hours an employee or class of
14 employees may be allowed to go or remain on duty,
15 or may be required to rest, that will significantly in-
16 crease safety.

17 “(b) REDUCTION OF LIMBO TIME.—Not later than
18 2 years after the date of enactment of the Railroad Safety
19 Enhancement Act of 2007, the Secretary shall issue regu-
20 lations that limit the time an employee spends waiting for
21 or in deadhead transportation to the place of final release
22 to be considered neither on duty nor off duty under section
23 21103(b)(4)(A)(iii) to a number of hours per day and per
24 month per employee that is necessary to maintain an ade-
25 quate level of safety, not to exceed 20 hours per month.

1 “(c) CONSIDERATIONS.—In issuing regulations pur-
2 suant to subsection (a) and (b), the Secretary shall con-
3 sider the variations in freight and passenger railroad
4 scheduling practices, the variations in duties performed by
5 employees subject to this chapter, the railroad’s required
6 or voluntary use of fatigue management plans covering
7 employees subject to this chapter, scientific or medical re-
8 search or knowledge related to fatigue, the railroad’s use
9 of new or novel technology intended to eliminate human
10 error, and any other relevant factors.

11 “(d) TIME LIMITS.—If the Secretary requests that
12 the Railroad Safety Advisory Committee accept the task
13 of developing regulations under subsection (a) and (b) and
14 the Committee accepts the task, the Committee shall reach
15 consensus on the rulemaking within 24 months after ac-
16 cepting the task. If the Committee does not reach con-
17 sensus within 24 months after the Secretary makes the
18 request, the Secretary shall prescribe appropriate regula-
19 tions within 1 year. If the Secretary does not request that
20 the Railroad Safety Advisory Committee accept the task
21 of developing regulations under subsections (a) and (b),
22 the Secretary shall issue regulations within 3 years.

23 “(e) PILOT PROJECTS.—

24 “(1) IN GENERAL.—Not later than 2 years
25 after the date of enactment of the Railroad Safety

1 Enhancement Act of 2007, the Secretary shall con-
2 duct 2 pilot projects to analyze specific practices
3 which may be used to reduce fatigue for railroad em-
4 ployees as follows:

5 “(A) A pilot project at a railroad or rail-
6 road facility to evaluate the efficacy of commu-
7 nicating to employees notice of their assigned
8 shift time 10 hours prior to the beginning of
9 their assigned shift as a method for reducing
10 employee fatigue.

11 “(B) A pilot project at a railroad or rail-
12 road facility to evaluate the efficacy of requiring
13 railroads who use employee scheduling practices
14 that subject employees to periods of unsched-
15 uled duty calls to assign employees to defined
16 or specific unscheduled call shifts that are fol-
17 lowed by shifts not subject to call, as a method
18 for reducing employee fatigue.

19 “(2) WAIVER.—The Secretary may temporarily
20 waive the requirements of this section, if necessary,
21 to complete a pilot project under this subsection.

22 “(f) DUTY CALL DEFINED.—In this section the term
23 ‘duty call’ means a telephone call that a railroad places
24 to an employee to notify the employee of his or her as-
25 signed shift time.”.

1 (2) CONFORMING AMENDMENT.—The chapter
 2 analysis for chapter 211 is amended by adding at
 3 the end thereof the following:

“21109. Regulatory authority.”.

4 **SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANAL-**
 5 **YSES INFORMATION.**

6 (a) AMENDMENT.—Subchapter I of chapter 201 is
 7 amended by adding at the end thereof the following:

8 **“§ 20118. Prohibition on public disclosure of required**
 9 **railroad safety analyses records**

10 “(a) IN GENERAL.—Notwithstanding section 552 of
 11 title 5 or any other provision of law, except as necessary
 12 for enforcement of any provision of Federal law by the
 13 Secretary of Transportation or by another Federal agency,
 14 the Secretary shall not disclose publicly any part of any
 15 record (including, but not limited to, a railroad carrier’s
 16 analysis of its safety risks and its statement of the mitiga-
 17 tion measures it has identified with which to address those
 18 risks) that the Secretary has obtained pursuant to a provi-
 19 sion of, or regulation or order under, this chapter related
 20 to the establishment, implementation, or modification of
 21 a railroad safety risk reduction program if the record is—
 22 “(1) supplied to the Secretary pursuant to that
 23 safety risk reduction program; or

1 “(2) made available for inspection and copying
 2 by an officer, employee, or agent of the Secretary
 3 pursuant to that safety risk reduction program.

4 “(b) EXCEPTION.—Notwithstanding subsection (a),
 5 the Secretary may disclose any part of any record com-
 6 prised of facts otherwise available to the public if, in the
 7 Secretary’s sole discretion, the Secretary determines that
 8 disclosure would be consistent with the confidentiality
 9 needed for that safety risk reduction program.

10 “(c) DISCRETIONARY PROHIBITION OF DISCLO-
 11 SURE.—The Secretary may prohibit the public disclosure
 12 of risk or risk mitigation analyses that the Secretary has
 13 obtained under other provisions of, or regulations or or-
 14 ders under, this chapter if the Secretary determines that
 15 the prohibition of public disclosure is necessary to promote
 16 railroad safety.

17 **“§ 20119. Discovery and admission into evidence of**
 18 **certain reports and surveys**

19 “Notwithstanding any other provision of law, no part
 20 of any report, survey, schedule, list, or data compiled or
 21 collected for the purpose of evaluating, planning, or imple-
 22 menting a railroad safety risk reduction program or other
 23 risk or risk mitigation analysis designated by the Sec-
 24 retary of Transportation under section 20118(c) pursuant
 25 to a provision of, or regulation or order under, this chapter

1 (including a railroad carrier’s analysis of its safety risks
 2 and its statement of the mitigation measures with which
 3 it will address those risks) shall be subject to discovery
 4 or admitted into evidence in a Federal or State court pro-
 5 ceeding, or considered for another purpose, in any action
 6 by a private party or parties for damages against the car-
 7 rier, or its officers, employees, or contractors. The pre-
 8 ceding sentence does not apply to any report, survey, list,
 9 or data otherwise available to the public.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
 11 ysis for chapter 201 is amended by inserting after the item
 12 relating to section 20117 the following:

“20118. Prohibition on public disclosure of required railroad safety risk anal-
 yses.

“20119. Discovery and admission into evidence of certain reports and surveys.”.

13 **TITLE II—HIGHWAY-RAIL GRADE** 14 **CROSSING AND PEDESTRIAN** 15 **SAFETY AND TRESPASSER** 16 **PREVENTION**

17 **SEC. 201. PEDESTRIAN CROSSING SAFETY.**

18 Not later than 1 year after the date of enactment
 19 of this Act, the Secretary shall provide guidance to rail-
 20 roads on strategies and methods to prevent pedestrian ac-
 21 cidents, injuries, and fatalities at or near passenger sta-
 22 tions, including—

- 1 (1) providing audible warning of approaching
2 trains to the pedestrians at railroad passenger sta-
3 tions;
- 4 (2) using signs, signals, or other visual devices
5 to warn pedestrians of approaching trains;
- 6 (3) installing infrastructure at pedestrian cross-
7 ings to improve the safety of pedestrians crossing
8 railroad tracks;
- 9 (4) installing fences to prohibit access to rail-
10 road tracks; and
- 11 (5) other strategies or methods as determined
12 by the Secretary.

13 **SEC. 202. STATE ACTION PLANS.**

14 (a) IN GENERAL.—Beginning not later than 6
15 months after the date of enactment of this Act, the Sec-
16 retary shall identify on an annual basis the 10 States that
17 receive Federal funds for highway-rail grade crossing safe-
18 ty projects that have had the most highway-rail grade
19 crossing collisions in the preceding fiscal year. The Sec-
20 retary shall require as a condition of receiving such funds
21 in the future (in addition to any requirements imposed
22 under any other provision of law) that each of these States
23 develop a State Grade Crossing Action Plan that identifies
24 specific solutions for improving safety at crossings, includ-
25 ing highway-rail grade crossing closures or grade separa-

1 tions, particularly at crossings that have experienced mul-
 2 tiple accidents, and shall provide assistance to the States
 3 in developing the plan.

4 (b) REVIEW AND APPROVAL.—Not later than 60 days
 5 after the Secretary receives a plan under subsection (a),
 6 the Secretary shall review and approve or disapprove it.
 7 If the proposed plan is not approved, the Secretary shall
 8 notify the affected State as to the specific points in which
 9 the proposed plan is deficient, and the State shall correct
 10 all deficiencies within 30 days following receipt of written
 11 notice from the Secretary.

12 **SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGH-**
 13 **WAY-RAIL GRADE CROSSINGS.**

14 (a) IN GENERAL.—Subchapter II of chapter 201, as
 15 amended by section 105 of this Act, is further amended
 16 by inserting after section 20158 the following:

17 **“§ 20159. Roadway user sight distance at highway-**
 18 **rail grade crossings**

19 “(a) IN GENERAL.—Not later than 18 months after
 20 the date of enactment of the Railroad Safety Enhance-
 21 ment Act of 2007, the Secretary of Transportation shall
 22 prescribe regulations that require each railroad carrier to
 23 remove from its rights-of-way at all public highway-rail
 24 grade crossings, and at all private highway-rail grade
 25 crossings open to unrestricted public access (as declared

1 in writing by the holder of the crossing right), grass,
 2 brush, shrubbery, trees, and other vegetation which may
 3 obstruct the view of a pedestrian or a vehicle operator for
 4 a reasonable distance in either direction of the train's ap-
 5 proach, and to maintain its rights-of-way at all such cross-
 6 ings free of such vegetation. In prescribing the regula-
 7 tions, the Secretary shall take into consideration to the
 8 extent practicable—

9 “(1) the type of warning device or warning de-
 10 vices installed at such crossings;

11 “(2) factors affecting the timeliness and effec-
 12 tiveness of roadway user decisionmaking, including
 13 the maximum allowable roadway speed, maximum
 14 authorized train speed, angle of intersection, and to-
 15 pography;

16 “(3) the presence or absence of other sight dis-
 17 tance obstructions off the railroad right-of-way; and

18 “(4) any other factors affecting safety at such
 19 crossings.

20 “(b) PROTECTED VEGETATION.—In promulgating
 21 regulations pursuant to this section, the Secretary may
 22 make allowance for preservation of trees and other orna-
 23 mental or protective growth where State or local law or
 24 policy would otherwise protect the vegetation from removal
 25 and where the roadway authority or private crossing hold-

er is notified of the sight distance obstruction and, within a reasonable period specified by the regulation, takes appropriate action to abate the hazard to roadway users (such as by closing the crossing, posting supplementary signage, installing active warning devices, lowering roadway speed, or installing traffic calming devices).

“(c) MODEL LEGISLATION.—Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2007, the Secretary, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 105 of this Act, is amended by inserting after the item relating to section 20158 the following new item:

“20159. Roadway user sight distance at highway-rail grade crossings.”.

SEC. 204. NATIONAL CROSSING INVENTORY.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 203 of this Act, is further amended by adding at the end the following new section:

1 **“§ 20160. National crossing inventory**

2 “(a) INITIAL REPORTING OF INFORMATION ABOUT
3 PREVIOUSLY UNREPORTED CROSSINGS.—Not later than
4 1 year after the date of enactment of the Railroad Safety
5 Enhancement Act of 2007 or 6 months after a new cross-
6 ing becomes operational, whichever occurs later, each rail-
7 road carrier shall—

8 “(1) report to the Secretary of Transportation
9 current information, including information about
10 warning devices and signage, as specified by the Sec-
11 retary, concerning each previously unreported cross-
12 ing through which it operates; or

13 “(2) ensure that the information has been re-
14 ported to the Secretary by another railroad carrier
15 that operates through the crossing.

16 “(b) UPDATING OF CROSSING INFORMATION.—

17 “(1) On a periodic basis beginning not later
18 than 2 years after the date of enactment of the Rail-
19 road Safety Enhancement Act of 2007 and on or be-
20 fore September 30 of every year thereafter, or as
21 otherwise specified by the Secretary, each railroad
22 carrier shall—

23 “(A) report to the Secretary current infor-
24 mation, including information about warning
25 devices and signage, as specified by the Sec-

1 retary, concerning each crossing through which
2 it operates; or

3 “(B) ensure that the information has been
4 reported to the Secretary by another railroad
5 carrier that operates through the crossing.

6 “(2) A railroad carrier that sells a crossing or
7 any part of a crossing on or after the date of enact-
8 ment of the Railroad Safety Enhancement Act of
9 2007 shall, not later than the date that is 18
10 months after the date of enactment of that Act or
11 3 months after the sale, whichever occurs later, or
12 as otherwise specified by the Secretary, report to the
13 Secretary current information, as specified by the
14 Secretary, concerning the change in ownership of the
15 crossing or part of the crossing.

16 “(c) RULEMAKING AUTHORITY.—The Secretary shall
17 prescribe the regulations necessary to implement this sec-
18 tion. The Secretary may enforce each provision of the De-
19 partment of Transportation’s statement of the national
20 highway-rail crossing inventory policy, procedures, and in-
21 struction for States and railroads that is in effect on the
22 date of enactment of the Railroad Safety Enhancement
23 Act of 2007, until such provision is superseded by a regu-
24 lation issued under this section.

25 “(d) DEFINITIONS.—In this section:

1 “(1) CROSSING.—The term ‘crossing’ means a
 2 location within a State, other than a location where
 3 one or more railroad tracks cross one or more rail-
 4 road tracks either at grade or grade-separated,
 5 where—

6 “(A) a public highway, road, or street, or
 7 a private roadway, including associated side-
 8 walks and pathways, crosses one or more rail-
 9 road tracks either at grade or grade-separated;
 10 or

11 “(B) a pathway explicitly authorized by the
 12 property owner that is dedicated for the use of
 13 nonvehicular traffic, including pedestrians,
 14 bicyclists, and others, that is not associated
 15 with a public highway, road, or street, or a pri-
 16 vate roadway, crosses one or more railroad
 17 tracks either at grade or grade-separated.

18 “(2) STATE.—The term ‘State’ means a State
 19 of the United States, the District of Columbia, or
 20 the Commonwealth of Puerto Rico.”.

21 (b) CONFORMING AMENDMENT.—The chapter anal-
 22 ysis for chapter 201, as amended by section 203 of this
 23 Act, is amended by inserting after the item relating to sec-
 24 tion 20159 the following:

“20160. National crossing inventory.”.

1 (c) REPORTING AND UPDATING.—Section 130 of title
2 23, United States Code, is amended by adding at the end
3 the following:

4 “(1) NATIONAL CROSSING INVENTORY.—

5 “(1) INITIAL REPORTING OF CROSSING INFOR-
6 MATION.—Not later than 1 year after the date of
7 enactment of the Railroad Safety Enhancement Act
8 of 2007 or within 6 months of a new crossing be-
9 coming operational, whichever occurs later, each
10 State shall report to the Secretary of Transportation
11 current information, including information about
12 warning devices and signage, as specified by the Sec-
13 retary, concerning each previously unreported cross-
14 ing located within its borders.

15 “(2) PERIODIC UPDATING OF CROSSING INFOR-
16 MATION.—On a periodic basis beginning not later
17 than 2 years after the date of enactment of the Rail-
18 road Safety Enhancement Act of 2007 and on or be-
19 fore September 30 of every year thereafter, or as
20 otherwise specified by the Secretary, each State shall
21 report to the Secretary current information, includ-
22 ing information about warning devices and signage,
23 as specified by the Secretary, concerning each cross-
24 ing located within its borders.

1 “(3) RULEMAKING AUTHORITY.—The Secretary
 2 shall prescribe the regulations necessary to imple-
 3 ment this subsection. The Secretary may enforce
 4 each provision of the Department of Transpor-
 5 tation’s statement of the national highway-rail cross-
 6 ing inventory policy, procedures, and instructions for
 7 States and railroads that is in effect on the date of
 8 enactment of the Railroad Safety Enhancement Act
 9 of 2007, until such provision is superseded by a reg-
 10 ulation issued under this subsection.

11 “(4) DEFINITIONS.—In this subsection, the
 12 terms ‘crossing’ and ‘State’ have the meaning given
 13 those terms by section 20160(d)(1) and (2), respec-
 14 tively, of title 49.”.

15 (d) CIVIL PENALTIES.—(1) Section 21301(a)(1) is
 16 amended—

17 (A) by inserting “with section 20160 or” after
 18 “comply” in the first sentence; and

19 (B) by inserting “section 20157 of this title or”
 20 after “violating” in the second sentence.

21 (2) Section 21301(a)(2) is amended by inserting
 22 “The Secretary shall impose a civil penalty for a violation
 23 of section 20160 of this title.” after the first sentence.

1 **SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-**
2 **ING PROBLEMS.**

3 (a) IN GENERAL.—Section 20152 is amended to read
4 as follows:

5 **“§ 20152. Notification of grade crossing problems**

6 “Not later than 18 months after the date of enact-
7 ment of the Railroad Safety Enhancement Act of 2007,
8 the Secretary of Transportation shall require each railroad
9 carrier to—

10 “(1) establish and maintain a telephone service,
11 which may be required to be a toll-free telephone for
12 specific railroad carriers as determined by the Sec-
13 retary to be appropriate, for rights-of-way over
14 which it dispatches trains, to directly receive calls
15 reporting—

16 “(A) malfunctions of signals, crossing
17 gates, and other devices to promote safety at
18 the grade crossing of railroad tracks on those
19 rights-of-way and public or private roads;

20 “(B) disabled vehicles blocking railroad
21 tracks at such grade crossings;

22 “(C) obstructions to the view of a pedes-
23 trian or a vehicle operator for a reasonable dis-
24 tance in either direction of a train’s approach;
25 or

1 “(D) other safety information involving
2 such grade crossings;

3 “(2) upon receiving a report pursuant to para-
4 graph (1)(A) or (B), immediately contact trains op-
5 erating near the grade crossing to warn them of the
6 malfunction or disabled vehicle;

7 “(3) upon receiving a report pursuant to para-
8 graph (1)(A) or (B), and after contacting trains
9 pursuant to paragraph (2), contact, as necessary,
10 appropriate public safety officials having jurisdiction
11 over the grade crossing to provide them with the in-
12 formation necessary for them to direct traffic, assist
13 in the removal of the disabled vehicle, or carry out
14 other activities as appropriate;

15 “(4) upon receiving a report pursuant to para-
16 graph (1)(C) or (D), timely investigate the report,
17 remove the obstruction if possible, or correct the un-
18 safe circumstance; and

19 “(5) ensure the placement at each grade cross-
20 ing on rights-of-way that it owns of appropriately lo-
21 cated signs, on which shall appear, at a minimum—

22 “(A) a telephone number to be used for
23 placing calls described in paragraph (1) to the
24 railroad carrier dispatching trains on that
25 right-of-way;

1 “(B) an explanation of the purpose of that
2 telephone number; and

3 “(C) the grade crossing number assigned
4 for that crossing by the National Highway-Rail
5 Crossing Inventory established by the Depart-
6 ment of Transportation.”.

7 (b) CONFORMING AMENDMENT.—The chapter anal-
8 ysis for chapter 201 is amended by striking the item relat-
9 ing to section 20152 and inserting the following:

 “20152. Notification of grade crossing problems.”.

10 **SEC. 206. OPERATION LIFESAVER.**

11 (a) GRANT.—The Federal Railroad Administration
12 shall make a grant or grants to Operation Lifesaver to
13 carry out a public information and education program to
14 help prevent and reduce pedestrian, motor vehicle, and
15 other incidents, injuries, and fatalities, and to improve
16 awareness along railroad rights-of-way and at highway-rail
17 grade crossings. This includes development, placement,
18 and dissemination of Public Service Announcements in
19 newspaper, radio, television, and other media. It will also
20 include school presentations, brochures and materials,
21 support for public awareness campaigns, and related sup-
22 port for the activities of Operation Lifesaver’s member or-
23 ganizations. As part of an educational program funded by
24 grants awarded under this section, Operation Lifesaver
25 shall provide information to the public on how to identify

1 and report to the appropriate authorities unsafe or mal-
2 functioning highway-rail grade crossings.

3 (b) PILOT PROGRAM.—The Secretary may allow
4 funds provided under subsection (a) also to be used by
5 Operation Lifesaver to implement a pilot program, to be
6 known as the Railroad Safety Public Awareness Program,
7 that addresses the need for targeted and sustained com-
8 munity outreach on the subjects described in subsection
9 (a). Such a pilot program shall be established in 1 or more
10 States identified under section 202 of this Act. In carrying
11 out such a pilot program Operation Lifesaver shall work
12 with the State, community leaders, school districts, and
13 public and private partners to identify the communities
14 at greatest risk, to develop appropriate measures to reduce
15 such risks, and shall coordinate the pilot program with
16 the State grade crossing action plan.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Federal Railroad
19 Administration for carrying out this section—

20 (1) \$2,000,000 for each of fiscal years 2008,
21 2009, and 2010; and

22 (2) \$1,500,000 for each of fiscal years 20011,
23 2012, and 2013.

1 **SEC. 207. TRESPASSER PREVENTION AND HIGHWAY-RAIL**
 2 **CROSSING SAFETY.**

3 (a) TRESPASSER PREVENTION AND HIGHWAY-RAIL
 4 GRADE CROSSING WARNING SIGN VIOLATIONS.—Section
 5 20151 is amended—

6 (1) by striking the section heading and insert-
 7 ing the following:

8 “§ 20151. Railroad trespassing, vandalism, and high-
 9 way-rail grade crossing warning sign vio-
 10 lation prevention strategy”;

11 (2) by striking subsection (a) and inserting the
 12 following:

13 “(a) EVALUATION OF EXISTING LAWS.—In consulta-
 14 tion with affected parties, the Secretary of Transportation
 15 shall evaluate and review current local, State, and Federal
 16 laws regarding trespassing on railroad property, van-
 17 dalism affecting railroad safety, and violations of highway-
 18 rail grade crossing warning signs and develop model pre-
 19 ventation strategies and enforcement laws to be used for the
 20 consideration of State and local legislatures and govern-
 21 mental entities. The first such evaluation and review con-
 22 cerning violations of grade crossing signals shall be com-
 23 pleted within 1 year after the date of enactment of the
 24 Railroad Safety Enhancement Act of 2007. The Secretary
 25 shall revise the model prevention strategies and enforce-
 26 ment codes periodically.”;

1 (3) by inserting “FOR TRESPASSING AND VAN-
 2 DALISM PREVENTION” in the subsection heading of
 3 subsection (b) after “OUTREACH PROGRAM”;

4 (4) in subsection (c)—

5 (A) by redesignating paragraphs (1) and
 6 (2) as subparagraphs (A) and (B), respectively;

7 (B) by inserting “(1)” after “MODEL LEG-
 8 ISLATION.—”; and

9 (C) by adding at the end the following new
 10 paragraph:

11 “(2) Within 18 months after the date of enactment
 12 of the Railroad Safety Enhancement Act of 2007, the Sec-
 13 retary, after consultation with State and local govern-
 14 ments and railroad carriers, shall develop and make avail-
 15 able to State and local governments model State legisla-
 16 tion providing for civil or criminal penalties, or both, for
 17 violations of highway-rail grade crossing warning signs.”;
 18 and

19 (5) by adding at the end the following new sub-
 20 section:

21 “(d) DEFINITION.—In this section, the term ‘viola-
 22 tion of highway-rail grade crossing warning signs’ includes
 23 any action by a motorist, unless directed by an authorized
 24 safety officer—

1 “(1) to drive around a grade crossing gate in
 2 a position intended to block passage over railroad
 3 tracks;

4 “(2) to drive through a flashing grade crossing
 5 signal;

6 “(3) to drive through a grade crossing with pas-
 7 sive warning signs without ensuring that the grade
 8 crossing could be safely crossed before any train ar-
 9 rived; and

10 “(4) in the vicinity of a grade crossing, who
 11 creates a hazard of an accident involving injury or
 12 property damage at the grade crossing.”.

13 (b) CONFORMING AMENDMENT.—The chapter anal-
 14 ysis for chapter 201 of title 49, United States Code, is
 15 amended by striking the item relating to section 20151
 16 and inserting the following:

“20151. Railroad trespassing, vandalism, and highway-rail grade crossing warn-
 ing sign violation prevention strategy.”.

17 (c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS
 18 FOR DISTRIBUTION.—Section 20134(a) is amended by
 19 adding at the end of the subsection the following: “The
 20 Secretary may purchase items of nominal value and dis-
 21 tribute them to the public without charge as part of an
 22 educational or awareness program to accomplish the pur-
 23 poses of this section and of any other sections of this title
 24 related to improving the safety of highway-rail crossings

1 and to preventing trespass on railroad rights of way, and
 2 the Secretary shall prescribe guidelines for the administra-
 3 tion of this authority.”.

4 **SEC. 208. FOSTERING INTRODUCTION OF NEW TECH-**
 5 **NOLOGY TO IMPROVE SAFETY AT HIGHWAY-**
 6 **RAIL GRADE CROSSINGS.**

7 (a) AMENDMENT.—Subchapter II of chapter 201, as
 8 amended by section 204 of this Act, is further amended
 9 by adding at the end the following:

10 **“§ 20161. Fostering introduction of new technology to**
 11 **improve safety at highway-rail grade**
 12 **crossings**

13 “(a) FINDINGS.—The Congress finds the following:

14 “(1) Collisions between highway users and
 15 trains at highway-rail grade crossings continue to
 16 cause loss of life and serious personal injury and
 17 also threaten the safety of rail transportation.

18 “(2) While elimination of at-grade crossings
 19 through consolidation of crossings and grade separa-
 20 tions offers the greatest long-term promise for opti-
 21 mizing the safety and efficiency of the two modes of
 22 transportation, over 140,000 public grade crossings
 23 remain on the general rail system—approximately
 24 one for each route mile on the general rail system.

1 “(3) Conventional highway traffic control de-
2 vices such as flashing lights and gates are effective
3 in warning motorists of a train’s approach to an
4 equipped crossing.

5 “(4) Since enactment of the Highway Safety
6 Act of 1973, over \$4,200,000,000 of Federal fund-
7 ing has been invested in safety improvements at
8 highway-rail grade crossings, yet a majority of pub-
9 lic highway-rail grade crossings are not yet equipped
10 with active warning systems.

11 “(5) The emergence of new technologies sup-
12 porting Intelligent Transportation Systems presents
13 opportunities for more effective and affordable warn-
14 ings and safer passage of highway users and trains
15 at remaining highway-rail grade crossings.

16 “(6) Implementation of new crossing safety
17 technology will require extensive cooperation between
18 highway authorities and railroad carriers.

19 “(7) Federal Railroad Administration regula-
20 tions establishing performance standards for proc-
21 essor-based signal and train control systems provide
22 a suitable framework for qualification of new or
23 novel technology at highway-rail grade crossings,
24 and the Federal Highway Administration’s Manual
25 on Uniform Traffic Control Devices provides an ap-

1 appropriate means of determining highway user inter-
2 face with such new technology.

3 “(b) POLICY.—It is the policy of the Department of
4 Transportation to encourage the development of new tech-
5 nology that can prevent loss of life and injuries at high-
6 way-rail grade crossings. The Secretary of Transportation
7 shall carry out this policy in consultation with States and
8 necessary public and private entities.

9 “(c) EFFECT OF SECRETARIAL APPROVAL.—If the
10 Secretary approves new technology to provide warning to
11 highway users at a highway-rail grade crossing and such
12 technology is installed at a highway-rail grade crossing in
13 accordance with the conditions of the approval, this deter-
14 mination preempts any State law concerning the adequacy
15 of the technology in providing warning at the crossing.
16 Under no circumstances may a person (including a State,
17 other public authority, railroad carrier, system designer,
18 or supplier of the technology) be held liable for damages
19 for any harm to persons or property because of an acci-
20 dent or incident at the crossing protected by such tech-
21 nology based upon the carrier’s failure to properly inspect
22 and maintain such technology, if the carrier has inspected
23 and maintained the technology in accordance with the
24 terms of the Secretary’s approval.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
 2 ysis for chapter 201, as amended by section 204 of this
 3 Act, is further amended by inserting after the item relat-
 4 ing to section 20160, the following:

“20161. Fostering introduction of new technology to improve safety at highway-
 rail grade crossings.”.

5 **TITLE III—FEDERAL RAILROAD** 6 **ADMINISTRATION**

7 **SEC. 301. HUMAN CAPITAL INCREASES.**

8 (a) IN GENERAL.—The Secretary shall increase the
 9 number of Federal Railroad Administration employees
 10 by—

- 11 (1) 25 employees in fiscal year 2008;
- 12 (2) 50 employees in fiscal year 2009;
- 13 (3) 50 employees in fiscal year 2010;
- 14 (4) 25 employees in fiscal year 2011;
- 15 (5) 25 employees in fiscal year 2012; and
- 16 (6) 25 employees in fiscal year 2013.

17 (b) FUNCTIONS.—In increasing the number of em-
 18 ployees pursuant to subsection (a), the Secretary shall
 19 focus on hiring employees—

- 20 (1) specifically trained to conduct on-site rail-
 21 road and highway-rail grade crossing accident inves-
 22 tigations;
- 23 (2) to implement the Railroad Safety Strategy;

1 (3) to administer and implement the Railroad
 2 Safety Risk Reduction Pilot Program and the Rail-
 3 road Safety Risk Reduction Program;

4 (4) to implement section 20166 of title 49,
 5 United States Code, and to focus on encouragement
 6 and oversight of the use of new or novel rail safety
 7 technology;

8 (5) to conduct routine inspections and audits of
 9 railroad and hazardous materials facilities and
 10 records for compliance with railroad safety laws and
 11 regulations; and

12 (6) to support the Federal Railroad Administra-
 13 tion’s safety mission.

14 **SEC. 302. CIVIL PENALTY INCREASES.**

15 (a) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-
 16 tion 21301(a)(2) is amended—

17 (1) by striking “\$10,000” and inserting
 18 “\$25,000”; and

19 (2) by striking “\$20,000” and inserting
 20 “\$100,000”.

21 (b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-
 22 TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH
 23 209.—Section 21302(a)(2) is amended—

24 (1) by striking “\$10,000” and inserting
 25 “\$25,000”; and

1 (2) by striking “\$20,000” and inserting
2 “\$100,000”.

3 (c) VIOLATIONS OF CHAPTER 211.—Section
4 21303(a)(2) is amended—

5 (1) by striking “\$10,000” and inserting
6 “\$25,000”; and

7 (2) by striking “\$20,000” and inserting
8 “\$100,000”.

9 **SEC. 303. ENFORCEMENT REPORT.**

10 (a) IN GENERAL.—Subchapter I of chapter 201, as
11 amended by section 107 of this Act, is amended by adding
12 at the end the following:

13 **“§ 20120. Enforcement Report.**

14 “(a) IN GENERAL.—Not later than December 31,
15 2008, the Secretary of Transportation shall make avail-
16 able to the public and publish on its public website an an-
17 nual report that—

18 “(1) provides a summary of railroad safety and
19 hazardous materials compliance inspections and au-
20 dits that Federal or state inspectors conducted in
21 the prior fiscal year organized by type of alleged vio-
22 lation, including track, motive power and equipment,
23 signal, grade crossing, operating practices, accident
24 and incidence reporting, and hazardous materials;

1 “(2) provides a summary of all enforcement ac-
2 tions taken by the Secretary or the Federal Railroad
3 Administration during the prior fiscal year, includ-
4 ing—

5 “(A) the number of civil penalties assessed
6 against railroad carriers, hazardous material
7 shippers, and individuals;

8 “(B) the initial amount of civil penalties
9 assessed against railroad carriers, hazardous
10 materials shippers, and individuals;

11 “(C) the number of civil penalty cases set-
12 tled against railroad carriers, hazardous mate-
13 rial shippers, and individuals;

14 “(D) the final amount of civil penalties as-
15 sessed against railroad carriers, hazardous ma-
16 terials shippers, and individuals;

17 “(E) the difference between the initial and
18 final amounts of civil penalties assessed against
19 railroad carriers, hazardous materials shippers,
20 and individuals;

21 “(F) the number of administrative hear-
22 ings requested and completed related to haz-
23 ardous materials transportation law violations
24 or enforcement actions against individuals;

1 “(G) the number of cases referred to the
2 Attorney General for civil or criminal prosecu-
3 tion;

4 “(H) the number and subject matter of all
5 compliance orders, emergency orders or pre-
6 cursor agreements;

7 “(3) analyzes the effect of the number of in-
8 spections conducted and enforcement actions taken
9 on the number and rate of reported accidents and
10 incidents and railroad safety;

11 “(4) identifies the number of locomotive engi-
12 neer certification denial or revocation cases appealed
13 to and the average length of time it took to be de-
14 cided by—

15 “(A) the Locomotive Engineer Review
16 Board;

17 “(B) an Administrative Hearing Officer or
18 Administrative Law Judge; or

19 “(C) the Administrator of the Federal
20 Railroad Administration;

21 “(5) provides any explanation regarding
22 changes in the Secretary’s or the Federal Railroad
23 Administration’s enforcement programs or policies
24 that may substantially affect the information re-
25 ported; and

1 “(6) includes any additional information that
 2 the Secretary determines is useful to improve the
 3 transparency of its enforcement program.”.

4 (b) CONFORMING AMENDMENT.—The chapter anal-
 5 ysis for chapter 201, as amended by section 107 of this
 6 Act, is amended by inserting after the item relating to sec-
 7 tion 20119 the following:

“20120. Enforcement report.”.

8 **SEC. 304. PROHIBITION OF INDIVIDUALS FROM PER-**
 9 **FORMING SAFETY-SENSITIVE FUNCTIONS**
 10 **FOR A VIOLATION OF HAZARDOUS MATE-**
 11 **RIALS TRANSPORTATION LAW.**

12 Section 20111(c) is amended to read as follows:

13 “(c) ORDERS PROHIBITING INDIVIDUALS FROM PER-
 14 FORMING SAFETY-SENSITIVE FUNCTIONS.—

15 “(1) If an individual’s violation of this part,
 16 chapter 51 of this title, or a regulation prescribed,
 17 or an order issued, by the Secretary under this part
 18 or chapter 51 of this title is shown to make that in-
 19 dividual unfit for the performance of safety-sensitive
 20 functions, the Secretary, after providing notice and
 21 an opportunity for a hearing, may issue an order
 22 prohibiting the individual from performing safety-
 23 sensitive functions in the railroad industry for a
 24 specified period of time or until specified conditions
 25 are met.

1 “(2) This subsection does not affect the Sec-
 2 retary’s authority under section 20104 of this title
 3 to act on an emergency basis.”.

4 **SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.**

5 Section 20107 is amended by inserting at the end the
 6 following:

7 “(c) RAILROAD RADIO COMMUNICATIONS.—

8 “(1) IN GENERAL.—To carry out the Sec-
 9 retary’s responsibilities under this part and under
 10 chapter 51, the Secretary may authorize officers,
 11 employees, or agents of the Secretary to conduct the
 12 following activities in circumstances the Secretary
 13 finds to be reasonable:

14 “(A) Intercepting a radio communication,
 15 with or without the consent of the sender or
 16 other receivers of the communication, but only
 17 where such communication is broadcast or
 18 transmitted over a radio frequency which is—

19 “(i) authorized for use by one or more
 20 railroad carriers by the Federal Commu-
 21 nications Commission; and

22 “(ii) primarily used by such railroad
 23 carriers for communications in connection
 24 with railroad operations.

1 “(B) Communicating the existence, con-
2 tents, substance, purport, effect, or meaning of
3 the communication, subject to the restrictions
4 in paragraph (3).

5 “(C) Receiving or assisting in receiving the
6 communication (or any information therein con-
7 tained).

8 “(D) Disclosing the contents, substance,
9 purport, effect, or meaning of the communica-
10 tion (or any part thereof of such communica-
11 tion) or using the communication (or any infor-
12 mation contained therein), subject to the re-
13 strictions in paragraph (3), after having re-
14 ceived the communication or acquired knowl-
15 edge of the contents, substance, purport, effect,
16 or meaning of the communication (or any part
17 thereof).

18 “(E) Recording the communication by any
19 means, including writing and tape recording.

20 “(2) ACCIDENT PREVENTION AND ACCIDENT
21 INVESTIGATION.—The Secretary, and officers, em-
22 ployees, and agents of the Department of Transpor-
23 tation authorized by the Secretary, may engage in
24 the activities authorized by paragraph (1) for the

1 purpose of accident prevention and accident inves-
2 tigation.

3 “(3) USE OF INFORMATION.—(A) Information
4 obtained through activities authorized by paragraphs
5 (1) and (2) shall not be admitted into evidence in
6 any administrative or judicial proceeding except—

7 “(i) in a prosecution of a felony under
8 Federal or State criminal law; or

9 “(ii) to impeach evidence offered by a
10 party other than the Federal Government re-
11 garding the existence, electronic characteristics,
12 content, substance, purport, effect, meaning, or
13 timing of, or identity of parties to, a commu-
14 nication intercepted pursuant to paragraphs (1)
15 and (2) in proceedings pursuant to section
16 5122, 5123, 20702(b), 20111, 20112, 20113,
17 or 20114 of this title.

18 “(B) If information obtained through activities
19 set forth in paragraphs (1) and (2) is admitted into
20 evidence for impeachment purposes in accordance
21 with subparagraph (A), the court, administrative law
22 judge, or other officer before whom the proceeding
23 is conducted may make such protective orders re-
24 garding the confidentiality or use of the information

1 as may be appropriate in the circumstances to pro-
2 tect privacy and administer justice.

3 “(C) No evidence shall be excluded in an ad-
4 ministrative or judicial proceeding solely because the
5 government would not have learned of the existence
6 of or obtained such evidence but for the interception
7 of information that is not admissible in such pro-
8 ceeding under subparagraph (A).

9 “(D) Information obtained through activities
10 set forth in paragraphs (1) and (2) shall not be sub-
11 ject to publication or disclosure, or search or review
12 in connection therewith, under section 552 of title 5.

13 “(E) Nothing in this subsection shall be con-
14 strued to impair or otherwise affect the authority of
15 the United States to intercept a communication, and
16 collect, retain, analyze, use, and disseminate the in-
17 formation obtained thereby, under a provision of law
18 other than this subsection.

19 “(4) APPLICATION WITH OTHER LAW.—Section
20 705 of the Communications Act of 1934 (47 U.S.C.
21 605) and chapter 119 of title 18 shall not apply to
22 conduct authorized by and pursuant to this sub-
23 section.”.

24 **SEC. 306. EMERGENCY WAIVERS.**

25 Section 20103 is amended—

1 (1) by striking subsection (e) and inserting the
2 following:

3 “(e) HEARINGS.—Except as provided in subsection
4 (g) of this section, the Secretary shall conduct a hearing
5 as provided by section 553 of title 5 when prescribing a
6 regulation or issuing an order under this chapter, includ-
7 ing a regulation or order establishing, amending, or
8 waiving compliance with a railroad safety regulation pre-
9 scribed or order issued under this chapter. An opportunity
10 for an oral presentation shall be provided.”; and

11 (2) by adding at the end thereof the following:

12 “(g) EMERGENCY WAIVERS.—

13 “(1) IN GENERAL.—The Secretary shall pre-
14 scribe procedures concerning the handling of re-
15 quests for waivers of regulations prescribed or or-
16 ders issued under this chapter in emergency situa-
17 tions and may prescribe temporary emergency waiv-
18 er procedures without first providing an opportunity
19 for public comment. The Secretary may grant a
20 waiver request if the waiver is directly related to the
21 emergency event or necessary to aid in any recovery
22 efforts and is in the public interest and consistent
23 with railroad safety. The relief shall not extend for
24 a period of more than 9 months, including the pe-
25 riod of the relief granted under any renewal of the

1 waiver pursuant to the emergency waiver procedures.
2 For matters that may impact the missions of the
3 Department of Homeland Security, the Secretary of
4 Transportation shall consult and coordinate with the
5 Secretary of Homeland Security as soon as prac-
6 ticable.

7 “(2) WAIVER BEFORE HEARING.—If, under the
8 emergency waiver procedures established under
9 paragraph (1) of this subsection, the Secretary de-
10 termines the public interest would be better served
11 by addressing a request for waiver prior to providing
12 an opportunity for a hearing under section 553 of
13 title 5 and an oral presentation, the Secretary may
14 act on the waiver request and, if the request is
15 granted, the Secretary shall subsequently provide no-
16 tice and an opportunity for a hearing and oral pres-
17 entation pursuant to procedures prescribed under
18 paragraph (1) of this subsection. Should the Sec-
19 retary receive comment or a request for oral presen-
20 tation on a waiver request after granting the waiver,
21 the Secretary may take any necessary action with re-
22 gard to that waiver (including rescission or modifica-
23 tion) based on the newly acquired information.

24 “(3) EMERGENCY SITUATION; EMERGENCY
25 EVENT.—In this subsection, the terms ‘emergency

1 situation’ and ‘emergency event’ mean a natural or
 2 manmade disaster, such as a hurricane, flood, earth-
 3 quake, mudslide, forest fire, snowstorm, terrorist
 4 act, biological outbreak, release of a dangerous radi-
 5 ological, chemical, explosive, or biological material,
 6 or a war-related activity, that poses a risk of death,
 7 serious illness, severe injury, or substantial property
 8 damage. The disaster may be local, regional, or na-
 9 tional in scope.”.

10 **SEC. 307. FEDERAL RAIL SECURITY OFFICERS’ ACCESS TO**
 11 **INFORMATION.**

12 (a) AMENDMENT.—Chapter 281 is amended by add-
 13 ing at the end thereof the following:

14 **“§ 28104. Federal rail security officers’ access to in-**
 15 **formation**

16 “(a) ACCESS TO RECORDS OR DATABASE SYSTEMS
 17 BY THE ADMINISTRATOR OF THE FEDERAL RAILROAD
 18 ADMINISTRATION.—

19 “(1) IN GENERAL.—The Administrator of the
 20 Federal Railroad Administration is authorized to
 21 have access to a system of documented criminal jus-
 22 tice information maintained by the Department of
 23 Justice or by a State for the purpose of carrying out
 24 the civil and administrative responsibilities of the
 25 Administrator to protect the safety, including secu-

1 rity, of railroad operations and for other purposes
2 authorized by law, including the National Crime
3 Prevention and Privacy Compact (42 U.S.C. 14611–
4 14616). The Administrator shall be subject to the
5 same conditions or procedures established by the De-
6 partment of Justice or State for access to such an
7 information system by other governmental agencies
8 with access to the system.

9 “(2) LIMITATION.—The Administrator may not
10 use the access authorized under paragraph (1) to
11 conduct criminal investigations.

12 “(b) DESIGNATED EMPLOYEES OF THE FEDERAL
13 RAILROAD ADMINISTRATION.—The Administrator shall,
14 by order, designate each employee of the Administration
15 whose primary responsibility is rail security who shall
16 carry out the authority described in subsection (a). The
17 Administrator shall strictly limit access to a system of doc-
18 umented criminal justice information to persons with secu-
19 rity responsibilities and with appropriate security clear-
20 ances. Such a designated employee may, insofar as author-
21 ized or permitted by the National Crime Prevention and
22 Privacy Compact or other law or agreement governing an
23 affected State with respect to such a State—

24 “(1) have access to and receive criminal history,
25 driver, vehicle, and other law enforcement informa-

1 tion contained in the law enforcement databases of
2 the Department of Justice, or of any jurisdiction in
3 a State in the same manner as a police officer em-
4 ployed by a State or local authority of that State
5 who is certified or commissioned under the laws of
6 that State;

7 “(2) use any radio, data link, or warning sys-
8 tem of the Federal Government and of any jurisdic-
9 tion in a State that provides information about
10 wanted persons, be-on-the-lookout notices, or war-
11 rant status or other officer safety information to
12 which a police officer employed by a State or local
13 authority in that State who is certified or commis-
14 sioned under the laws of that State has access and
15 in the same manner as such police officer; or

16 “(3) receive Federal, State, or local government
17 communications with a police officer employed by a
18 State or local authority in that State in the same
19 manner as a police officer employed by a State or
20 local authority in that State who is commissioned
21 under the laws of that State.

22 “(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE
23 INFORMATION DEFINED.—In this section, the term ‘sys-
24 tem of documented criminal justice information’ means
25 any law enforcement database, systems, or communica-

1 tions containing information concerning identification,
 2 criminal history, arrests, convictions, arrest warrants, or
 3 wanted or missing persons, including the National Crime
 4 Information Center and its incorporated criminal history
 5 databases and the National Law Enforcement Tele-
 6 communications System.”.

7 (b) CONFORMING AMENDMENT.—The chapter anal-
 8 ysis for chapter 281 is amended by adding at the end the
 9 following:

“28104. Federal rail security officers’ access to criminal history and other law
 enforcement records, systems, and communications.”.

10 **SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRA-**
 11 **TION’S WEBSITE.**

12 (a) IN GENERAL.—The Secretary shall update the
 13 Federal Railroad Administration’s public website to better
 14 facilitate the ability of the public, including those individ-
 15 uals who are not regular users of the public website, to
 16 find current information regarding the Federal Railroad
 17 Administration’s activities.

18 (b) PUBLIC REPORTING OF VIOLATIONS.—On the
 19 Federal Railroad Administration’s public website’s home
 20 page, the Secretary shall provide a mechanism for the pub-
 21 lic to submit written reports of potential violations of Fed-
 22 eral railroad safety and hazardous materials transpor-
 23 tation laws, regulations and orders to the Federal Railroad
 24 Administration.

1 **TITLE IV—RAILROAD SAFETY**
2 **ENHANCEMENTS**

3 **SEC. 401. EMPLOYEE TRAINING.**

4 (a) IN GENERAL.—Subchapter II of chapter 201, as
5 amended by section 208 of this Act, is further amended
6 by adding at the end the following:

7 **“§ 20162. Employee training**

8 “(a) IN GENERAL.—Not later than 1 year after the
9 date of enactment of the Railroad Safety Enhancement
10 Act of 2007, the Secretary of Transportation shall issue
11 regulations requiring railroad carriers and railroad carrier
12 contractors and subcontractors to develop training plans
13 for crafts and classes of employees, as the Secretary deter-
14 mines appropriate.

15 “(b) CONTENTS.—The Secretary shall require that
16 each training plan—

17 “(1) clearly identify the class of craft of em-
18 ployees to which the plan applies;

19 “(2) require that employees be trained on the
20 requirements of relevant Federal railroad safety
21 laws, regulations, and orders;

22 “(3) require employees to be tested or otherwise
23 demonstrate their proficiency in the subject matter
24 of the training; and

1 “(4) contain any other relevant information
2 that the Secretary deems appropriate.

3 “(c) SUBMISSION FOR APPROVAL.—The Secretary
4 shall require each railroad carrier, railroad carrier con-
5 tractor, and railroad carrier subcontractor to submit its
6 training plan to the Federal Railroad Administration for
7 review and approval.

8 “(d) EXEMPTION.—The Secretary may exempt rail-
9 road carriers and railroad carrier contractors and sub-
10 contractors from submitting training plans covering em-
11 ployees for which the Secretary has issued training regula-
12 tions before the date of enactment of the Railroad Safety
13 Enhancement Act of 2007.”.

14 (b) CONFORMING AMENDMENT.—The chapter anal-
15 ysis for chapter 201, as amended by section 208 of this
16 Act, is further amended by adding at the end thereof the
17 following:

“20162. Employee training.”.

18 **SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASS-**
19 **ES OF EMPLOYEES.**

20 (a) REPORT.—Not later than 1 year after the date
21 of enactment of this Act, the Secretary shall issue a report
22 to the Senate Committee on Commerce, Science, and
23 Transportation and the House of Representatives Com-
24 mittee on Transportation and Infrastructure about wheth-
25 er the certification of certain crafts or classes of railroad

1 carrier or railroad carrier contractor or subcontractor em-
2 ployees is necessary to reduce the number and rate of acci-
3 dents and incidents or to improve railroad safety.

4 (b) CRAFTS AND CLASSES TO BE CONSIDERED.—As
5 part of the report, the Secretary shall consider—

6 (1) conductors;

7 (2) carmen;

8 (3) onboard service workers;

9 (4) rail welders; and

10 (5) any other craft or class of employees that
11 the Secretary determines appropriate.

12 (c) REGULATIONS.—The Secretary may issue regula-
13 tions requiring the certification of certain crafts or classes
14 of employees that the Secretary determines pursuant to
15 the report required by subsection (a) are necessary to re-
16 duce the number and rate of accidents and incidents or
17 to improve railroad safety

18 **SEC. 403. TRACK INSPECTION TIME STUDY.**

19 (a) FINDINGS.—The Congress finds the following:

20 (1) Rail revenue ton miles have increased by
21 approximately 25 percent in the past 10 years.

22 (2) Federal track safety regulations require
23 track inspectors to complete inspections by walking
24 or in a hi-rail vehicle and are often time intensive.

1 (3) Track inspectors are required to receive per-
2 mission to occupy track to complete inspections,
3 which often delays trains from operating through the
4 segment of track being inspected, especially on high-
5 density lines.

6 (4) Obtaining track time to complete required
7 track repairs of defects identified during track in-
8 spections can further delay train operations.

9 (5) The competition for track time between
10 track inspectors and trains potentially can leave seri-
11 ous rail defects undetected and unrepaired, increas-
12 ing the risk of derailments, accidents and injuries.

13 (6) Results of rail and track defect detection
14 technology studies have shown promise that such
15 technologies can better identify or predict the most
16 serious track problems, which could reduce inspec-
17 tion time or decrease the need for as frequent track
18 inspections.

19 (7) Being able to better detect track defects or
20 predict when track defects will occur by using new
21 or novel inspection technology could assist railroads
22 in maximizing track inspection time and more effi-
23 ciently using track repair time.

24 (b) STUDY.—Not later than 2 years after the date
25 of enactment of this Act, the Secretary shall—

1 (1) complete a study to determine whether—

2 (A) the required intervals of track inspec-
3 tions for each class of track should be amended;

4 (B) track remedial action requirements
5 should be amended;

6 (C) different track inspection and repair
7 priorities or methods should be required; and

8 (2) issue recommendations for changes to the
9 Federal track safety standards in part 213 of title
10 49, Code of Federal Regulations, based on the re-
11 sults of the study.

12 (c) CONSIDERATIONS.—In conducting the study the
13 Secretary shall consider—

14 (1) the most current rail flaw, rail defect
15 growth, rail fatigue, and other relevant track- or
16 rail-related research and studies;

17 (2) the availability and feasibility of developing
18 and implementing new or novel rail inspection tech-
19 nology for routine track inspections;

20 (3) information from National Transportation
21 Safety Board or Federal Railroad Administration
22 accident investigations where track defects were the
23 cause or a contributing cause; and

24 (4) other relevant information, as determined
25 by the Secretary.

1 (d) UPDATE OF REGULATIONS.—Not later than 2
2 years after the completion of the study required by sub-
3 section (b), the Secretary shall issue regulations imple-
4 menting the recommendations of the study.

5 **SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT**
6 **STATION PLATFORM GAPS.**

7 Not later than 2 years after the enactment of this
8 Act, the Secretary shall complete a study to determine the
9 most safe, efficient, and cost-effective way to improve the
10 safety of rail passenger station platforms gaps in order
11 to increase compliance with the requirements under the
12 Americans with Disabilities Act (42 U.S.C. 12101 et seq.),
13 including regulations issued pursuant to section 504 of
14 such Act (42 U.S.C. 12204) and to minimize the safety
15 risks associated with such gaps for railroad passengers
16 and employees.

17 **SEC. 405. USE OF DISTRACTING DEVICES IN LOCOMOTIVE**
18 **CABS.**

19 (a) IN GENERAL.—Not later than 3 years after the
20 date of enactment of this Act, the Secretary shall complete
21 a study on the prevalence of the use of personal electronic
22 devices, including cell phones, video games, and other dis-
23 tracting devices, by safety-related railroad employees (as
24 defined in section 20102(4) of title 49, United States
25 Code, during the performance of such employees' duties.

1 The study shall consider the safety impact of the use of
2 such devices.

3 (b) REPORT.—Not later than 6 months after the
4 completion of the study, the Secretary shall issue a report
5 on the study to the Senate Committee on Commerce,
6 Science, and Transportation and the House of Represent-
7 atives Committee on Transportation and Infrastructure.

8 (c) PROHIBITORY AUTHORITY.—Based on the con-
9 clusions of the study required under (a), the Secretary of
10 Transportation may prohibit the use of personal electronic
11 devices, such as cell phones, video games, or other elec-
12 tronic devices that may distract employees from safely per-
13 forming their duties, unless those devices are being used
14 according to railroad operating rules or for other work
15 purposes.

16 **SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.**

17 (a) IN GENERAL.—Subchapter II of chapter 201, as
18 amended by section 401 of this Act, is further amended
19 by adding at the end thereof the following:

20 **“§ 20163. Railroad safety technology grants**

21 “(a) GRANT PROGRAM.—The Secretary of Transpor-
22 tation shall establish a grant program for the deployment
23 of train control technologies, train control component tech-
24 nologies, processor-based technologies, electronically con-
25 trolled pneumatic brakes, rail integrity inspection systems,

1 rail integrity warning systems, switch position indicators,
 2 remote control power switch technologies, track integrity
 3 circuit technologies, and other new or novel railroad safety
 4 technology.

5 “(b) GRANT CRITERIA.—

6 “(1) ELIGIBILITY.—Grants shall be made under
 7 this section to eligible passenger and freight railroad
 8 carriers, railroad suppliers, and State and local gov-
 9 ernments for projects described in subsection (a)
 10 that have a public benefit of improved safety and
 11 network efficiency.

12 “(2) CONSIDERATIONS.—Priority shall be given
 13 to projects that—

14 “(A) focus on making technologies inter-
 15 operable between railroad systems, such as
 16 train control technologies;

17 “(B) provide incentives for train control
 18 technology deployment on high-risk corridors,
 19 such as those that have high volumes of haz-
 20 ardous materials shipments or over which com-
 21 muter or passenger trains operate; or

22 “(C) benefit both passenger and freight
 23 safety and efficiency.

24 “(3) TECHNOLOGY IMPLEMENTATION PLAN.—

25 Grants may not be awarded under this section to en-

1 tities that fail to develop and submit to the Sec-
 2 retary a technology implementation plan as required
 3 by section 20157(d)(2).

4 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to the Secretary of
 6 Transportation \$20,000,000 for each of fiscal years 2008
 7 through 2013 to carry out this section. Amounts appro-
 8 priated pursuant to this section shall remain available
 9 until expended.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
 11 ysis for chapter 201, as amended by section 401 of this
 12 Act, is further amended by inserting after the item relat-
 13 ing to section 20163 the following:

“20163. Railroad safety technology grants.”.

14 **SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-**
 15 **MENT GRANTS.**

16 (a) IN GENERAL.—Subchapter II of chapter 201, as
 17 amended by section 406 of this Act, is further amended
 18 by adding at the end thereof the following:

19 **“§ 20164. Railroad safety infrastructure improvement**
 20 **grants**

21 “(a) GRANT PROGRAM.—The Secretary of Transpor-
 22 tation shall establish a grant program for safety improve-
 23 ments to railroad infrastructure, including the acquisition,
 24 improvement, or rehabilitation of intermodal or rail equip-
 25 ment or facilities, including track, bridges, tunnels, yards,

1 buildings, passenger stations, facilities, and maintenance
2 and repair shops.

3 “(b) ELIGIBILITY.—Grants shall be made under this
4 section to eligible passenger and freight railroad carriers,
5 and State and local governments for projects described in
6 subsection (a).

7 “(c) CONSIDERATIONS.—In awarding grants the Sec-
8 retary shall consider, at a minimum—

9 “(1) the age and condition of the rail infra-
10 structure of the applicant;

11 “(2) the railroad’s safety record, including acci-
12 dent and incident numbers and rates;

13 “(3) the volume of hazardous materials trans-
14 ported by the railroad;

15 “(4) the operation of passenger trains over the
16 railroad; and

17 “(5) whether the railroad has submitted a rail-
18 road safety risk reduction program, as required by
19 section 20157.

20 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Secretary of
22 Transportation \$15,000,000 for each of fiscal years 2008
23 through 2013 to carry out this section. Amounts appro-
24 priated pursuant to this subsection shall remain available
25 until expended.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
 2 ysis for chapter 201, as amended by section 406 of this
 3 Act, is amended by inserting after the item relating to sec-
 4 tion 20163 the following:

“20164. Railroad safety infrastructure improvement grants.”.

5 **SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR**
 6 **PROVISION.**

7 Section 20303 is amended by adding at the end the
 8 following:

9 “(d) ADDITIONAL CONDITIONS FOR MOVEMENT TO
 10 MAKE REPAIRS TO DEFECTIVE OR INSECURE VEHI-
 11 CLES.—

12 “(1) IN GENERAL.—The Secretary of Transpor-
 13 tation may impose conditions for the movement of a
 14 defective or insecure vehicle to make repairs in addi-
 15 tion to those conditions set forth in subsection (a)
 16 by prescribing regulations or issuing orders as nec-
 17 essary.

18 “(2) NECESSITY OF MOVEMENT.—The move-
 19 ment of a defective or insecure vehicle from a loca-
 20 tion may be necessary to make repairs of the vehicle
 21 even though a mobile repair truck capable of making
 22 the repairs has gone to the location on an irregular
 23 basis (as specified in regulations prescribed by the
 24 Secretary).

25 “(e) DEFINITIONS.—In this section:

1 “(1) NEAREST.—the term ‘nearest’ means the
2 closest in the forward direction of travel for the de-
3 fective or insecure vehicle.

4 “(2) PLACE AT WHICH THE REPAIRS CAN BE
5 MADE.—The term ‘place at which the repairs can be
6 made’ means—

7 “(A) a location with a fixed facility for
8 conducting the repairs that are necessary to
9 bring the defective or insecure vehicle into com-
10 pliance with this chapter; or

11 “(B) a location where a mobile repair
12 truck capable of making the repairs that are
13 necessary to bring the defective or insecure ve-
14 hicle into compliance with this chapter makes
15 the same kind of repair at the location regularly
16 (as specified in regulations prescribed by the
17 Secretary).”.

18 **SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECH-**
19 **NOLOGY.**

20 (a) IN GENERAL.—Subchapter II of chapter 201, as
21 amended by section 407 of this Act, is further amended
22 by adding at the end the following new section:

1 **“§ 20165. Development and use of rail safety tech-**
 2 **nology**

3 “(a) IN GENERAL.—Not later than 1 year after en-
 4 actment of the Railroad Safety Enhancement Act of 2007,
 5 the Secretary of Transportation shall issue standards,
 6 guidance, regulations, or orders to encourage the develop-
 7 ment, use, and implementation of rail safety technology
 8 in dark territory, in arrangements not defined in section
 9 20501 or otherwise not covered by Federal standards,
 10 guidance, regulations, or orders that ensures its safe oper-
 11 ation, such as—

12 “(1) switch position monitoring devices;

13 “(2) radio, remote control or other power-as-
 14 sisted switches;

15 “(3) hot box, high water or earthquake detec-
 16 tors;

17 “(4) remote control locomotive zone limiting de-
 18 vices;

19 “(5) slide fences;

20 “(6) grade crossing video monitors;

21 “(7) track integrity warning systems; or

22 “(8) other similar rail safety technologies, as
 23 determined by the Secretary.

24 “(b) DARK TERRITORY DEFINED.—In this section,
 25 the term ‘dark territory’ means any territory in a railroad

1 system that does not have a signal or train control system
 2 installed or operational.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
 4 ysis for chapter 201, as amended by section 407 of this
 5 Act, is amended by inserting after the item relating to sec-
 6 tion 20164 the following:

“20165. Development and use of rail safety technology.”.

7 **SEC. 410. EMPLOYEE SLEEPING QUARTERS.**

8 Section 21106 is amended—

9 (1) by inserting “(a) IN GENERAL.—” before
 10 “A railroad carrier”; and

11 (2) by adding at the end the following new sub-
 12 section:

13 “(b) CAMP CARS.—Effective 12 months after the
 14 date of enactment of the Railroad Safety Enhancement
 15 Act of 2007, a railroad carrier and its officers and agents
 16 may not provide sleeping quarters through the use of camp
 17 cars, as defined in Appendix C to part 228 of title 49,
 18 Code of Federal Regulations, for employees and any indi-
 19 viduals employed to maintain the right of way of a railroad
 20 carrier.”.

1 **TITLE V—RAIL PASSENGER**
 2 **DISASTER FAMILY ASSISTANCE**

3 **SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION**
 4 **SAFETY BOARD TO FAMILIES OF PAS-**
 5 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 6 **CIDENTS.**

7 (a) IN GENERAL.—Chapter 11 is amended by adding
 8 at the end of subchapter III the following:

9 **“§ 1139. Assistance to families of passengers involved**
 10 **in rail passenger accidents**

11 “(a) IN GENERAL.—As soon as practicable after
 12 being notified of a rail passenger accident within the
 13 United States involving a rail passenger carrier and result-
 14 ing in a major loss of life, the Chairman of the National
 15 Transportation Safety Board shall—

16 “(1) designate and publicize the name and
 17 phone number of a director of family support serv-
 18 ices who shall be an employee of the Board and shall
 19 be responsible for acting as a point of contact within
 20 the Federal Government for the families of pas-
 21 sengers involved in the accident and a liaison be-
 22 tween the rail passenger carrier and the families;
 23 and

24 “(2) designate an independent nonprofit organi-
 25 zation, with experience in disasters and posttrauma

1 communication with families, which shall have pri-
2 mary responsibility for coordinating the emotional
3 care and support of the families of passengers in-
4 volved in the accident.

5 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
6 shall have primary Federal responsibility for—

7 “(1) facilitating the recovery and identification
8 of fatally injured passengers involved in an accident
9 described in subsection (a); and

10 “(2) communicating with the families of pas-
11 sengers involved in the accident as to the roles of—

12 “(A) the organization designated for an ac-
13 cident under subsection (a)(2);

14 “(B) Government agencies; and

15 “(C) the rail passenger carrier involved,
16 with respect to the accident and the post-accident
17 activities.

18 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-
19 TION.—The organization designated for an accident under
20 subsection (a)(2) shall have the following responsibilities
21 with respect to the families of passengers involved in the
22 accident:

23 “(1) To provide mental health and counseling
24 services, in coordination with the disaster response
25 team of the rail passenger carrier involved.

1 “(2) To take such actions as may be necessary
2 to provide an environment in which the families may
3 grieve in private.

4 “(3) To meet with the families who have trav-
5 eled to the location of the accident, to contact the
6 families unable to travel to such location, and to
7 contact all affected families periodically thereafter
8 until such time as the organization, in consultation
9 with the director of family support services des-
10 ignated for the accident under subsection (a)(1), de-
11 termines that further assistance is no longer needed.

12 “(4) To arrange a suitable memorial service, in
13 consultation with the families.

14 “(d) PASSENGER LISTS.—

15 “(1) REQUESTS FOR PASSENGER LISTS.—

16 “(A) REQUESTS BY DIRECTOR OF FAMILY
17 SUPPORT SERVICES.—It shall be the responsi-
18 bility of the director of family support services
19 designated for an accident under subsection
20 (a)(1) to request, as soon as practicable, from
21 the rail passenger carrier involved in the acci-
22 dent a list, which is based on the best available
23 information at the time of the request, of the
24 names of the passengers that were aboard the
25 rail passenger carrier’s train involved in the ac-

1 cident. A rail passenger carrier shall use rea-
2 sonable efforts, with respect to its unreserved
3 trains, and passengers not holding reservations
4 on its other trains, to ascertain the names of
5 passengers aboard a train involved in an acci-
6 dent.

7 “(B) REQUESTS BY DESIGNATED ORGANI-
8 ZATION.—The organization designated for an
9 accident under subsection (a)(2) may request
10 from the rail passenger carrier involved in the
11 accident a list described in subparagraph (A).

12 “(2) USE OF INFORMATION.—The director of
13 family support services and the organization may
14 not release to any person information on a list ob-
15 tained under paragraph (1) but may provide infor-
16 mation on the list about a passenger to the family
17 of the passenger to the extent that the director of
18 family support services or the organization considers
19 appropriate.

20 “(e) CONTINUING RESPONSIBILITIES OF THE
21 BOARD.—In the course of its investigation of an accident
22 described in subsection (a), the Board shall, to the max-
23 imum extent practicable, ensure that the families of pas-
24 sengers involved in the accident—

1 “(1) are briefed, prior to any public briefing,
2 about the accident and any other findings from the
3 investigation; and

4 “(2) are individually informed of and allowed to
5 attend any public hearings and meetings of the
6 Board about the accident.

7 “(f) USE OF RAIL PASSENGER CARRIER RE-
8 SOURCES.—To the extent practicable, the organization
9 designated for an accident under subsection (a)(2) shall
10 coordinate its activities with the rail passenger carrier in-
11 volved in the accident to facilitate the reasonable use of
12 the resources of the carrier.

13 “(g) PROHIBITED ACTIONS.—

14 “(1) ACTIONS TO IMPEDE THE BOARD.—No
15 person (including a State or political subdivision)
16 may impede the ability of the Board (including the
17 director of family support services designated for an
18 accident under subsection (a)(1)), or an organization
19 designated for an accident under subsection (a)(2),
20 to carry out its responsibilities under this section or
21 the ability of the families of passengers involved in
22 the accident to have contact with one another.

23 “(2) UNSOLICITED COMMUNICATIONS.—No un-
24 solicited communication concerning a potential ac-
25 tion for personal injury or wrongful death may be

made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

“(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

“(h) DEFINITIONS.—In this section:

“(1) RAIL PASSENGER ACCIDENT.—The term ‘rail passenger accident’ means any rail passenger disaster occurring in the provision of—

1 “(A) interstate intercity rail passenger
2 transportation (as such term is defined in sec-
3 tion 24102); or

4 “(B) interstate or intrastate high-speed
5 rail (as such term is defined in section 26105)
6 transportation,
7 regardless of its cause or suspected cause.

8 “(2) RAIL PASSENGER CARRIER.—The term
9 ‘rail passenger carrier’ means a rail carrier pro-
10 viding—

11 “(A) interstate intercity rail passenger
12 transportation (as such term is defined in sec-
13 tion 24102); or

14 “(B) interstate or intrastate high-speed
15 rail (as such term is defined in section 26105)
16 transportation,
17 except that such term does not include a tourist, his-
18 toric, scenic, or excursion rail carrier.

19 “(3) PASSENGER.—The term ‘passenger’ in-
20 cludes—

21 “(A) an employee of a rail passenger car-
22 rier aboard a train;

23 “(B) any other person aboard the train
24 without regard to whether the person paid for

1 the transportation, occupied a seat, or held a
2 reservation for the rail transportation; and

3 “(C) any other person injured or killed in
4 the accident.

5 “(i) LIMITATION ON STATUTORY CONSTRUCTION.—
6 Nothing in this section may be construed as limiting the
7 actions that a rail passenger carrier may take, or the obli-
8 gations that a rail passenger carrier may have, in pro-
9 viding assistance to the families of passengers involved in
10 a rail passenger accident.

11 “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-
12 ORITY.—

13 “(1) GENERAL RULE.—This section (other than
14 subsection (g)) shall not apply to a railroad accident
15 if the Board has relinquished investigative priority
16 under section 1131(a)(2)(B) and the Federal agency
17 to which the Board relinquished investigative pri-
18 ority is willing and able to provide assistance to the
19 victims and families of the passengers involved in
20 the accident.

21 “(2) BOARD ASSISTANCE.—If this section does
22 not apply to a railroad accident because the Board
23 has relinquished investigative priority with respect to
24 the accident, the Board shall assist, to the maximum
25 extent possible, the agency to which the Board has

1 relinquished investigative priority in assisting fami-
 2 lies with respect to the accident.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
 4 tions for such chapter is amended by inserting after the
 5 item relating to section 1138 the following:

“1139. Assistance to families of passengers involved in rail passenger acci-
 dents.”.

6 **SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAM-**
 7 **ILIES OF PASSENGERS INVOLVED IN RAIL**
 8 **PASSENGER ACCIDENTS.**

9 (a) IN GENERAL.—Chapter 243 is amended by add-
 10 ing at the end the following:

11 **“§ 24316. Plans to address needs of families of pas-**
 12 **sengers involved in rail passenger acci-**
 13 **dents**

14 “(a) SUBMISSION OF PLAN.—Not later than 6
 15 months after the date of the enactment of the Railroad
 16 Safety Enhancement Act of 2007, a rail passenger carrier
 17 shall submit to the Chairman of the National Transpor-
 18 tation Safety Board, the Secretary of Transportation, and
 19 the Secretary of Homeland Security a plan for addressing
 20 the needs of the families of passengers involved in any rail
 21 passenger accident involving a rail passenger carrier inter-
 22 city train and resulting in a loss of life.

1 “(b) CONTENTS OF PLANS.—The plan to be sub-
2 mitted by a rail passenger carrier under subsection (a)
3 shall include, at a minimum, the following:

4 “(1) A process by which a rail passenger carrier
5 will maintain and provide to the National Transpor-
6 tation Safety Board, the Secretary of Transpor-
7 tation, and the Secretary of Homeland Security, im-
8 mediately upon request, a list (which is based on the
9 best available information at the time of the request)
10 of the names of the passengers aboard the train
11 (whether or not such names have been verified), and
12 will periodically update the list. The plan shall in-
13 clude a procedure, with respect to unreserved trains
14 and passengers not holding reservations on other
15 trains, for a rail passenger carrier to use reasonable
16 efforts to ascertain the number and names of pas-
17 sengers aboard a train involved in an accident.

18 “(2) A plan for creating and publicizing a reli-
19 able, toll-free telephone number within 4 hours after
20 such an accident occurs, and for providing staff, to
21 handle calls from the families of the passengers.

22 “(3) A process for notifying the families of the
23 passengers, before providing any public notice of the
24 names of the passengers, by suitably trained individ-
25 uals.

1 “(4) A process for providing the notice de-
2 scribed in paragraph (2) to the family of a pas-
3 senger as soon as a rail passenger carrier has
4 verified that the passenger was aboard the train
5 (whether or not the names of all of the passengers
6 have been verified).

7 “(5) A process by which the family of each pas-
8 senger will be consulted about the disposition of all
9 remains and personal effects of the passenger within
10 a rail passenger carrier’s control; that any posses-
11 sion of the passenger within a rail passenger car-
12 rier’s control will be returned to the family unless
13 the possession is needed for the accident investiga-
14 tion or any criminal investigation; and that any un-
15 claimed possession of a passenger within a rail pas-
16 senger carrier’s control will be retained by the rail
17 passenger carrier for at least 18 months.

18 “(6) A process by which the treatment of the
19 families of nonrevenue passengers will be the same
20 as the treatment of the families of revenue pas-
21 sengers.

22 “(7) An assurance that a rail passenger carrier
23 will provide adequate training to its employees and
24 agents to meet the needs of survivors and family
25 members following an accident.

1 “(c) USE OF INFORMATION.—Neither the National
2 Transportation Safety Board, the Secretary of Transpor-
3 tation, the Secretary of Homeland Security, nor a rail pas-
4 senger carrier may release any personal information on
5 a list obtained under subsection (b)(1) but may provide
6 information on the list about a passenger to the family
7 of the passenger to the extent that the Board or a rail
8 passenger carrier considers appropriate.

9 “(d) LIMITATION ON LIABILITY.—A rail passenger
10 carrier shall not be liable for damages in any action
11 brought in a Federal or State court arising out of the per-
12 formance of a rail passenger carrier under this section in
13 preparing or providing a passenger list, or in providing
14 information concerning a train reservation, pursuant to a
15 plan submitted by a rail passenger carrier under sub-
16 section (b), unless such liability was caused by a rail pas-
17 senger carrier’s conduct.

18 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
19 Nothing in this section may be construed as limiting the
20 actions that a rail passenger carrier may take, or the obli-
21 gations that a rail passenger carrier may have, in pro-
22 viding assistance to the families of passengers involved in
23 a rail passenger accident.

24 “(f) FUNDING.—Out of funds appropriated pursuant
25 to section 20117(a)(1)(A), there shall be made available

1 to the Secretary of Transportation \$500,000 for fiscal
 2 year 2008 to carry out this section. Amounts made avail-
 3 able pursuant to this subsection shall remain available
 4 until expended.”.

5 (b) CONFORMING AMENDMENT.—The chapter anal-
 6 ysis for chapter 243 is amended by adding at the end the
 7 following:

“24316. Plan to assist families of passengers involved in rail passenger acci-
 dents.”.

8 **SEC. 503. ESTABLISHMENT OF TASK FORCE.**

9 (a) ESTABLISHMENT.—The Secretary, in cooperation
 10 with the National Transportation Safety Board, organiza-
 11 tions potentially designated under section 1139(a)(2) of
 12 title 49, United States Code, rail passenger carriers, and
 13 families which have been involved in rail accidents, shall
 14 establish a task force consisting of representatives of such
 15 entities and families, representatives of passenger rail car-
 16 rier employees, and representatives of such other entities
 17 as the Secretary considers appropriate.

18 (b) MODEL PLAN AND RECOMMENDATIONS.—The
 19 task force established pursuant to subsection (a) shall de-
 20 velop—

21 (1) a model plan to assist passenger rail car-
 22 riers in responding to passenger rail accidents;

23 (2) recommendations on methods to improve
 24 the timeliness of the notification provided by pas-

1 senger rail carriers to the families of passengers in-
 2 volved in a passenger rail accident;

3 (3) recommendations on methods to ensure that
 4 the families of passengers involved in a passenger
 5 rail accident who are not citizens of the United
 6 States receive appropriate assistance; and

7 (4) recommendations on methods to ensure that
 8 emergency services personnel have as immediate and
 9 accurate a count of the number of passengers on-
 10 board the train as possible.

11 (c) REPORT.—Not later than 1 year after the date
 12 of the enactment of this Act, the Secretary shall transmit
 13 to Congress a report containing the model plan and rec-
 14 ommendations developed by the task force under sub-
 15 section (b).

16 **TITLE VI—CLARIFICATION OF** 17 **FEDERAL JURISDICTION** 18 **OVER SOLID WASTE FACILI-** 19 **TIES**

20 **SEC. 601. CLARIFICATION OF FEDERAL JURISDICTION** 21 **OVER SOLID WASTE FACILITIES.**

22 Section 10501 is amended—

23 (1) by striking “facilities,” in subsection (b)(2)
 24 and inserting “facilities (except solid waste manage-

1 ment facilities (as defined in section 1004 of the
2 Solid Waste Disposal Act (42 U.S.C. 6903))),”;

3 (2) by striking “over mass transportation pro-
4 vided by a local governmental authority.” in sub-
5 section (c)(2) and inserting “over—

6 “(A) mass transportation provided by a
7 local governmental authority; or

8 “(B) the processing or sorting of solid
9 waste.”.

○